May 1, 1995

1995-1997

Annual Growth Policy

POLICY ELEMENT

Recommendations for
the Administration of the
Adequate Public Facilities Ordinance

STAFF DRAFT

The Montgomery County Planning Board M-NCPPC

STAFF DRAFT

1995-1997 ANNUAL GROWTH POLICY
POLICY ELEMENT

for

MONTGOMERY COUNTY, MARYLAND

Including

Issues Related to the Administration of the Adequate Public Facilities Ordinance

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
May 1, 1995

ABSTRACT

TITLE:	Staff Draft 1995-1997 Annual Growth Policy Policy Element
AUTHOR:	Montgomery County Planning Department, Maryland-National Capital Park and Planning Commission
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ABSTRACT:	Montgomery County Council Bill No. 11-86 (amended by Bill 29-93) established the process by which Council provides guidance for the management of growth. In accordance with this law, the Montgomery County Planning Department has prepared recommendations on policy issues raised by the County Council during its approval of the FY95 Annual Growth Policy. These recommendations will be reviewed by the Planning Board and the County Executive prior to a public hearing and consideration by the County Council.

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EXECUTIVE SUMMARY

Montgomery County, Maryland's Adequate Public Facilities Ordinance is administered by the Annual Growth Policy, adopted each year by the County Council by July 15. The AGP contains growth capacity ceilings for jobs and housing in 25 policy areas.

Beginning last year, growth policy issues are now considered on a separate track from "ceiling" issues. This Staff Draft 1995-1997 AGP Policy Element contain recommendations for a range of policy issues identified by the County Council., including new policy areas in Clarksburg, Glenmont and Shady Grove, the amount of development that can be approved under the *de minimis* rule, an evaluation of the Alternative Review Procedures, and other issues. The Planning Board will consider this document before June 15 and forward its recommendations to the County Executive. The County Council is expected to hold its public hearing and worksessions on these issues in October with the adopted policies going into effect November 1, 1995.

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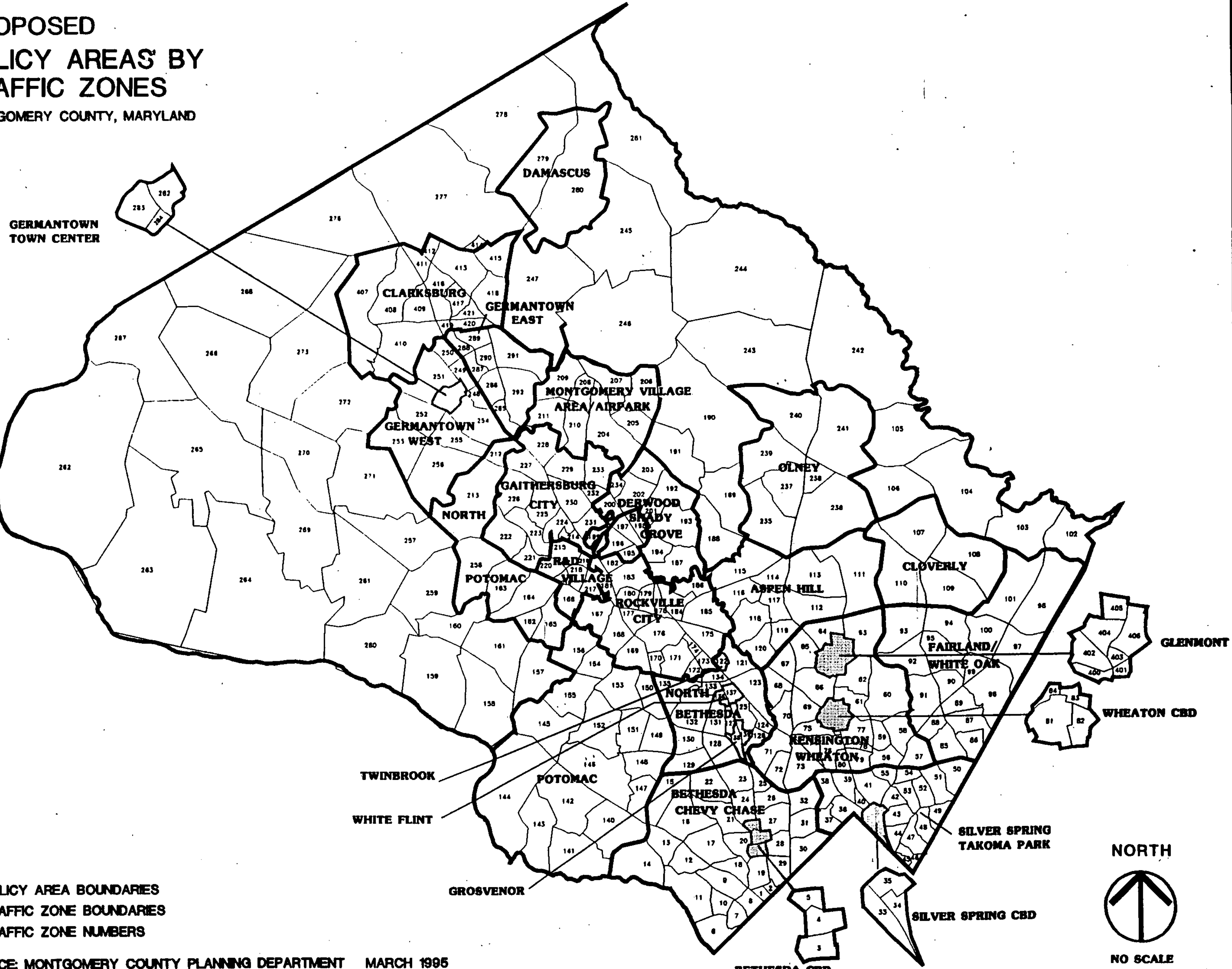


POLICY AREA BOUNDARIES

TRAFFIC ZONE BOUNDARIES

264 TRAFFIC ZONE NUMBERS

SOURCE: MONTGOMERY COUNTY PLANNING DEPARTMENT MARCH 1995

1995 Policy Issues

This is the first Annual Growth Policy (AGP) "Policy Element," a biennial document devoted to research and analysis of growth policy issues identified by the County Council. Previously, the Council considered changes to the County's growth policies annually. This was done as part of the adoption of AGP staging ceilings. Staging ceilings continue to be adopted annually (by July 15 of each year).

The County Council identified nine issues to be addressed in the first AGP Policy Element. These are summarized below. This Staff Draft Policy Element will be reviewed by the Planning Board; the Board's recommendations will be transmitted to the County Council and the County Executive by June 15, 1995. The County Executive will review the Planning Board's recommendations and transmit his recommendations by August 1, 1995. The County Council will review these issues and will adopt those changes meeting with its approval by November 1, 1995.

Issue 1: Clarksburg Policy Area(s)

Following the adoption of the Clarksburg Master Plan in 1994, the County Council considered the establishment of a Clarksburg Policy Area for FY95. After its review, the Council elected to defer further consideration of the issue to the AGP Policy Element.

Since that time, the federal government has announced its selection of Clarksburg as the site for the consolidation of the Food and Drug Administration.

Planning staff has performed the necessary analyses, including consideration of more than one policy area for Clarksburg, and recommends that a single policy area be created in Clarksburg and that, based upon the currently-approved pipeline, staging ceilings be set so that the net remaining capacities for both jobs and housing are zero.

Issue 2: Shady Grove Policy Area

The County Council directed the Planning Board, with the aid of the Executive, to "perform the necessary analyses to allow the creation of a policy area in the Shady Grove Metrorail Station area, including delineation of the policy area and the timing of its creation."

Planning staff has performed the necessary analyses and recommends that a policy area be created in the vicinity of the Shady Grove Metro Station. Planning staff believes this action will encourage desired development in an area where the County has already

committed significant transportation infrastructure even though staff is not recommending that any additional staging ceiling be "created" as a result of this new designation.

Issue 3: Glenmont Policy Area

The County Council directed the Planning Board, with the aid of the Executive, to "perform the necessary analyses to allow the creation of a policy area in the Glenmont Metrorail Station area, including delineation of the policy area and the timing of its creation."

Planning staff has performed the necessary analyses and recommends that creation of a new policy area in Glenmont be timed to coincide with the adoption of the Glenmont Master Plan. Staff's analysis of the capacity that can be expected from the opening of the Metro Station and the possible allocation of that capacity among policy areas will be useful in the preparation of the Master Plan and the ultimate creation of the policy area.

Issue 4: Ceiling Flexibility - Adequacy of School Facilities

The County Council directed "the staffs of the Board of Education, the Executive, the Planning Board and the County Council [to] continue to evaluate options for a potential ceiling flexibility provision in the APFO school test. The staff group must report its options and findings to the Council's Education Committee. If sufficient consensus exists on an option, Planning Staff must include it in the Staff Draft of the next Annual Growth Policy to solicit public comment."

Although no policy area is currently in moratorium due to inadequate school facilities, school enrollments continue to increase rapidly. If a moratorium based upon inadequate schools were to occur, the County has no mechanism for permitting developers to provide the needed school facilities.

The staff working group has reviewed the issues related to ceiling flexibility for school facilities and was unable to reach consensus in time for inclusion in this document. The working group plans to continue working to address this issue.

Issue 5: Ceiling Flexibility - *De Minimis* Impacts

This issue concerns the size of development that may be approved under the Ceiling Flexibility - *De Minimis* Impacts provision of the Annual Growth Policy. Until recently, the accepted interpretation of the language in the AGP has been that development generating ten or fewer peak hour, peak direction automobile trips is eligible for *de minimis* approval, but that only development generating up to five trips would be approved. Any remaining lots would become outlots, which would not be developable until development capacity becomes available.

The County Council requested that the Planning Board review this issue in the 1995 AGP Policy Element, including "issues related to outlots and consideration of pro rata contributions toward transportation infrastructure." Planning staff has reviewed this issue and recommends that changes to the *de minimis* provisions solely address the outlot issue. Staff's recommendation would permit the 45 existing outlots to develop if they

make a contribution toward transportation infrastructure (the Development Approval Payment). It would also limit eligibility for de minimis approvals to subdivisions generating five or fewer trips.

Staff's recommendation is identical to the Planning Board's testimony at the County Council's public hearing on the *de minimis* rule early this year.

Issue 6: Retention of Little-Used AGP Provisions

The County Council asked that two little-used provisions of the AGP -- the Special Ceiling Allocation for Health Care Facilities and Ceiling Flexibility for Partial Cost Developer Participation -- be evaluated to see if they should be retained.

Planning staff has performed the necessary analyses and recommends that the Special Ceiling Allocation for Health Care Facilities be removed from the AGP resolution but retained as guidelines for Planning Board consideration of health facilities in moratorium areas. Planning staff recommends that the Ceiling Flexibility for Partial Cost Developer Participation be eliminated because some of its objectives can be better met through other means and because several of the policy areas where the provision was available are no longer in moratorium.

Issue 7: Extension of Metro Station Policy Area Alternative Review Procedure

The County Council directed the Planning Board to evaluate the possible application of the Alternative Review Procedure for Metro Station Policy Areas to other policy areas.

This procedure permits developers in metro station policy areas (Wheaton CBD, Bethesda CBD, Grosvenor, White Flint, and Twinbrook) to meet Local Area Transportation Review conditions by making a payment to the County based upon the size of the project, participating in a transportation management organization, and other conditions.

Planning staff has performed the necessary analyses and recommends that the procedure be continued and applied to new Metro Station Policy Areas as they are created. These could include Shady Grove and Glenmont. Staff does not recommend extending use of the procedure to other policy areas because of the different nature of local area transportation conditions in those areas.

Staff also prepared an evaluation of the Alternative Review Procedures for Limited Residential Development, which is scheduled to sunset at the end of FY96. Staff believes the County's experience thus far with the procedure has been positive and, apart from the initial flurry of activity -- primarily in Germantown and Cloverly -- use of the procedure has been relatively limited. Consequently, staff has come to believe that the procedure has utility as a compliment to Full-Cost Developer Participation, at least until development districts can be implemented. Therefore, staff suggests that the Alternative Review Procedure for Limited Residential Development be continued for another two years and re-evaluated in the 1997-1999 AGP Policy Element.

Issue 8: Monitoring and Evaluating LATR Standards

The FY 95 AGP identified a future task for the Planning Staff and Executive staff, in cooperation with interested citizens, to conduct concerning investigating and monitoring intersections to determine if the adopted standards will create congestion or safety problems. A working group of the staffs and citizens has both met and corresponded concerning this analysis. It recently has become apparent that the data necessary for this effort is not available from the MCDOT. To address this, some data collection is identified in the Planning Department budget request for FY 96, which would support other planning work as well. This will allow the analysis to move forward.

It is expected that in the coming fiscal year an investigation of delay and other aspects of intersections above a 1,525 CLV will be conducted, so that some findings can be presented to the Council. It is hoped that Council staff as well as other transportation professionals and interested citizens will be involved in the review to provide a wide perspective on the issues involved and findings from the analysis.

Appendix 1: Development Trends

In accordance with the requirements of the AGP resolution, staff has prepared a review of residential and non-residential development trends, including subdivision approvals, building permits, building completions, and conditions in the housing and commercial space markets.

Clarksburg Policy Area(s)

The Planning Department recommends the creation of a single Clarksburg Policy Area with staging ceilings set so that the net remaining capacities for both jobs and housing are zero.

Clarksburg is the last Montgomery County community to be developed along the I-270 Corridor. To support the development envisioned in the Approved and Adopted Clarksburg Master Plan (June 1994) , a significant amount of public facilities will be needed, not all of which can be provided by the public sector within the time period of the Plan.

This is recognized in the Master Plan, which emphasizes: (1) the need to coordinate the timing of development with the provision of public facilities; (2) that the timely development of Clarksburg will depend to a great extent upon contributions by private developers of the facilities needed to support their projects; and (3) that the Annual Growth Policy is to be a primary mechanism for staging the buildout of the Clarksburg Master Plan.

Several quotes from the Plan are illustrative:

> *"Staging policies should be developed to coordinate the timing of land development in Clarksburg with the provision of such public improvements are roads, sewerage facilities, schools, parks, libraries, and police and fire stations. Such capital facilities can best be financed without undue burden to the County and its taxpayers if the facilities are built in a logical, rational fashion, servicing only a few compact development areas at any one time, and proceeding in later stages to build out from already-developed areas in a logical incremental sequence."*

> *"A fiscal impact analysis by the Montgomery County Office of Planning Implementation... concluded that County revenues would need to be supplemented by developer funding."*

> *"Unlike some plans, where staging has been implemented primarily through incremental rezonings of major areas of a plan, the Plan relies on such mechanisms as the County's Comprehensive Water Supply and Sewerage Systems Plan, the Annual Growth Policy (AGP), and the Adequate Public Facilities Ordinance, floating zone approvals, and the*

formation of development districts (or other financing mechanisms to implement the County's staging policies."

Utility of Policy Areas

To allow the full capabilities of the AGP to be used as a staging mechanism for Clarksburg, the area needs to be designated an AGP "policy area." Policy area designation means that the area is subject to the AGP's Policy Area Transportation Review, a test which determines whether transportation facilities in the area are adequate to support additional development.

With or without policy area designation, development in the area is subject to all other public facilities adequacy tests: Local Area Transportation Review, which tests the adequacy of intersections impacted by the development, and tests for the adequacy of schools, water and sewerage facilities, and police, fire and health facilities.

Policy Area Transportation Review (PATR) tests the adequacy of an area's roadways and transit facilities in a comprehensive way. PATR is an annual test, the results of which are adopted as staging ceilings in the AGP Ceiling Element. Staging ceilings show the maximum amount of housing and commercial development that can be supported by the existing transportation network as well as any transportation projects programmed for completion within the first four years of the County, state, or municipal capital improvements programs.

One of the features of PATR is that it looks at the impact of completed and approved development both *within* and *surrounding* the area on the area's transportation facilities. Transportation facilities in a policy area can therefore be found to be inadequate even if the area has little development of its own, due to "through" traffic. This is particularly true when a policy area is located between residential areas and job centers, a situation which produces congested conditions as residents travel to jobs in the morning and return home in the evening.

In policy areas where transportation service is inadequate, PATR is also the mechanism for determining what facilities are needed to support future development, whether those facilities are funded through the public sector, the private sector, or a combination of the two.

Background: Previous Consideration of a Clarksburg Policy Area

As requested by the County Council, the Planning Board first conducted the analyses necessary to establish a Clarksburg Policy Area during the spring of 1994. The Board's review of the transportation facilities in Clarksburg showed that they were more congested than County standards and that transit and pedestrian facilities were minimal.

In its Final Draft AGP Ceiling Element (April 1994), the Planning Board recommended that the Council establish a single Clarksburg Policy Area for FY95 and that the area be placed in moratorium for new jobs and housing. Although the Board found the level of transportation service to be below standard and deserving of negative net remaining capacity, the Board recommend that staging ceilings be set so that the net remaining capacities for both jobs and housing were zero. This would assure that the capacity cre-

ated by any new transportation infrastructure built in the area would be available for use by Clarksburg development.

The Clarksburg Master Plan was subsequently approved by the County Council in June, after which the Council turned its attention to the proposed Clarksburg Policy Area. Among the factors cited by the Council when it voted to delay the implementation of the Clarksburg Policy Area:

- that imposition of a development moratorium immediately after adoption of the master plan would send the wrong signal about the County's commitment to implementing the master plan; and
- that early development of the town center is an important goal of the Plan and a delay in the establishment of a Clarksburg Policy Area would encourage the developer of a major project within the town center to move ahead quickly.

Additionally, when the County Council delayed consideration of a Clarksburg Policy Area to the 1995 AGP Policy Element, it directed that the Planning Board further study the utility of more than one policy area for Clarksburg.

Planning Staff Analysis

The County's total transportation level of service standard for all policy areas is 0.585. This number is a combination of an area's roadway level of service and transit level of service, weighted by the use of each mode.

As a base level of analysis, Planning Department staff tested a single policy area for Clarksburg using existing and approved development in Clarksburg against a background land use of all existing and approved development in areas "upstream and downstream" of Clarksburg along I-270.

The results of staff's analysis is that Clarksburg's transportation level of service is currently 0.586, very close to (albeit slightly above) its standard.

Planning Department staff then tested two Clarksburg Policy Areas -- Clarksburg East and West -- divided by I-270. The background land use assumptions were identical to those in the first scenario. There is a great deal of difficulty associated with setting staging ceilings for "Clarksburg West" because the roadway network there is extremely limited. Nevertheless, staff's best analysis showed that "Clarksburg East" has worse congestion than "Clarksburg West." Consequently, a divided Clarksburg resulted in a worse TTLOS score for Clarksburg East and an improved TTLOS score for Clarksburg West.

Staff's tests of a bifurcated Clarksburg Policy Area suggest that no benefits are currently achievable by creating two Clarksburg policy

Clarksburg Policy Area Profile

Regional Transit Accessibility: *0.98*
Transit Mode Share: *0.04*
Average Congestion Index: *0.57*
Auto Mode Share: *0.96*

Moratorium for: *Jobs and Housing*
Moratorium due to: *Completed and approved development in surrounding areas.*

Clarksburg Ceilings	Jobs	Housing
Draft FY96 Gross Ceiling	5,609	741
1994 Base	1,610	528
Pipeline (3/31/95)	3,999	213
Net Remaining Capacity	0	0

areas at this time. As the roadway network on both sides of I-270 becomes significantly more complex -- a situation not expected in the near future -- staff will wish to revisit this issue and perform additional studies.

The third scenario tested by Planning Department staff was similar to the first except that it included the development associated with the proposed Food and Drug Administration headquarters and the proposed "Clarksburg Town Center" development project. With these two projects included as land uses, the TTLOS score for a single Clarksburg Policy area was significantl below the standard.

The fourth scenario tested by Planning Department staff identified a set of roadway improvements that would mitigate the impact of the FDA and Town Center proposals on Clarksburg's roadway network. These included projects to:

- widen MD 121 to four lanes between I-270 and the main site entrances to the FDA project and make selected improvements to the MD 121 and I-270 interchange;
- construct Newcut Road as a four-lane arterial between MD 355 to west of I-270 (southern FDA access);
- widen MD 355 to four lanes between MD 121 and MD 27; and
- widen MD 121 to four lanes between MD 355 and I-270.

These road improvements are significant and do not represent the only improvements which would increase the staging ceiling in Clarksburg to accommodate the FDA and Town Center projects. Staff provides them as illustrative of the improvements that will be necessary to maintain the TTLOS standard for Clarksburg, should it become a policy area.

Possible Clarksburg Town Center Policy Area

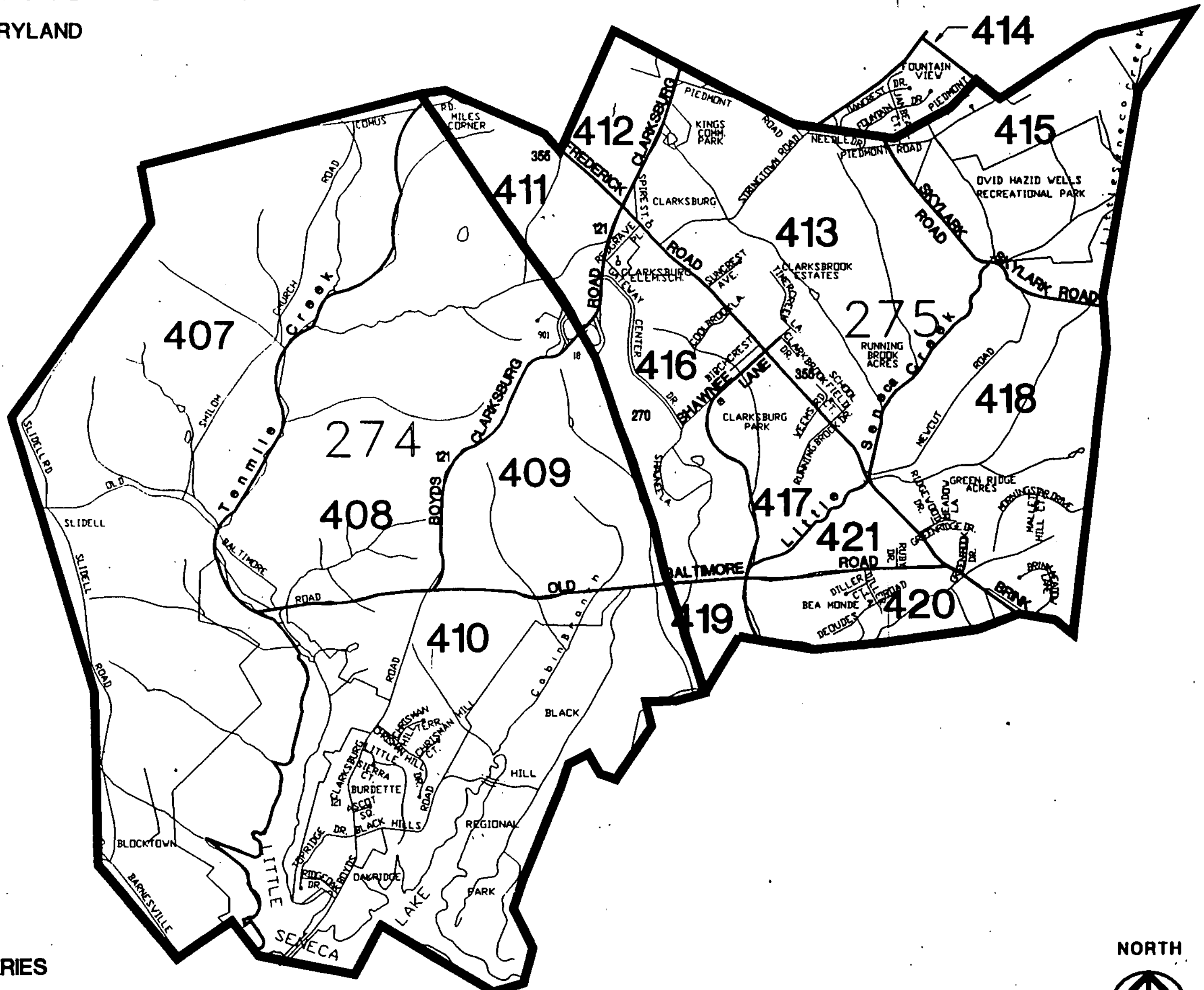
Planning staff's analysis of a possible Town Center policy area in Clarksburg (similar to the Germantown Town Center) indicates that such a mechanism would have limited utility in Clarksburg. This is because town center policy areas allow the County to allocated existing capacity to compact areas well-served by transit. Apart from the fact that Clarksburg is not currently well-served by transit (nor is it expected to be in the immediate future), there is not currently any capacity to allocate to a town center policy area.

Planning Department Recommendation

Based upon its analysis, Planning staff recommends that a single Clarksburg Policy Area be created with staging ceilings set at the highest possible while still meeting the County's standard. That would set the jobs ceiling at 5,609 and the housing ceiling at 741.

PROPOSED CLARKSBURG POLICY AREA BY TRAFFIC ZONES

MONTGOMERY COUNTY, MARYLAND



POLICY AREA BOUNDARIES

TRAFFIC ZONE BOUNDARIES

264 TRAFFIC ZONE NUMBERS

NORTH

NO SCALE

SOURCE: MONTGOMERY COUNTY PLANNING DEPARTMENT MARCH 1995

Shady Grove Policy Area

The Planning Department recommends that the County establish a Metro Station Policy Area at Shady Grove.

The Shady Grove Metrorail Station is the first station on the western leg of Metro's Red Line. As such, it is a transit hub not only for persons who live or work within walking distance of the station, but also for residents to the north who access Metro by car or bus.

The Gaithersburg Vicinity Master Plan Amendment (1990) established a vision for the area immediately adjacent to the Metro Station. Two major features of the plan are:

- recognition that the Shady Grove Metro Station will not always be the terminus of the Red Line and that redevelopment of the station area would be appropriate; and
- designation of a transit-oriented, higher density mixed use neighborhood near the Shady Grove Metro station.

Establishment of a Shady Grove Policy Area will help achieve these land use objectives.

Metro Station Policy Areas

The County establishes Metro Station Policy Areas to encourage the location of jobs and housing units in a compact area where the County has already made a substantial investment in transportation infrastructure.

Metro Station Policy Areas are compact, which is generally considered to mean that the boundaries are within walking distance of the Metro station. Not every Metro station is targeted for higher density development (Forest Glen is an example), so not every policy area with a Metro station is recommended for Metro Station Policy Area status.

The County encourages the location of jobs and housing in Metro Station Policy Areas in several ways. When additional development capacity is created by roadway or transit improvements, that capacity can, in some instances, be allocated to Metro Station Policy Areas rather than the larger surrounding policy area.

In addition, the County's policy of allowing greater traffic congestion in areas with greater transit service and usage means that Local Area Transportation Review standards are less stringent in Metro Station Policy Areas than anywhere else in the County. This is

beneficial to development because intersection improvements are typically very expensive in areas with higher density land uses, and it can be beneficial to the County when intersection widenings would run counter to County goals of enhancing the pedestrian environment.

In FY94, the County instituted the Alternative Review Procedure for Metro Station Policy Areas, which permits developers to proceed without making the intersection improvements that would otherwise be required under LATR. Instead, the developer agrees to make a payment to the County based upon the size and type of the project, participate in and support a transportation management organization (TMO), and make its best effort to meet mode share goals established by the Planning Board.

For more discussion of Metro Station Policy Areas, please see Issue 7, which discusses the usefulness of extending the Alternative Review Procedure for Metro Station Policy Areas to other areas.

Current Policy Area Status

Shady Grove is currently part of the Derwood/Shady Grove Policy Area, which was created from the former Gaithersburg East and Rockville policy areas during the comprehensive restructuring of policy areas in FY92. Derwood/Shady Grove is 9.12 square miles in size and has approximately 25,000 jobs and 7,142 housing units within its borders.

Since its creation, Derwood/Shady Grove has been in moratorium for jobs, although the size of its jobs deficit dropped from -2,427 jobs to -676 jobs in FY95. At 5,182 jobs, the Derwood/Shady Grove job queue (number of jobs awaiting approval) is the second largest in the County. Derwood/Shady Grove has never been in moratorium for housing units and currently has a net remaining capacity of 1,375.

FY92 Proposal For a Shady Grove Policy Area

The Montgomery County Planning Board recommended the establishment of a Shady Grove Policy Area for FY92. Considerable thought was given to the boundaries of the area, which are identical to those being proposed by Planning staff at this time.

To quote from the Final Draft FY92 Annual Growth Policy:

> *The adopted Shady Grove sector plan area (1977) includes some 2,900 acres and is too large to serve as an area within walking distance of the Metrorail station. The Planning Board also evaluated using the Metro Area in the 1989 Shady Grove Study Area Master Plan, but concluded that this area also did not provide a useful boundary. The Metro Area consists only of the 40-acre Metro surface parking lot and the King Farm. It does not include other properties within walking distance of Metro.*
>
> *Because there was not another suitable boundary, the Planning Board created a new boundary for the Shady Grove Metrorail station policy area which includes redevelopable land around the Metro station and the 440-acre King Farm. While not all of the King Farm is within walking distance of*

the Metrorail station, the Shady Grove Study Area Master Plan states that most of the "study area development will be within one-quarter mile or less, walking distance, of a transit route." The plan calls for an extensive "transit system consisting of three elements: transitways separate from streets, regional bus routes, and a system of neighborhood bus loops. Development is proposed to be clustered toward these transit elements to enhance transit access." Because the plan designates a transit-oriented, higher density mixed use neighborhood near the Shady Grove Metro station. the Planning Board recommends that all of this area be within the Shady Grove Metro Station Policy Area.

The Final Draft FY92 AGP also included proposed metro station policy areas at Forest Glen, Friendship Heights CBD, Grosvenor, White Flint, Twinbrook, Takoma Park, and Wheaton CBD (in addition to the two existing areas at Bethesda CBD and Silver Spring CBD). For the adopted FY92 AGP, the County Council elected to proceed with a compact policy area at Wheaton CBD and to stage review of additional metro station policy areas to coincide with the adoption of new master plans, sector plans, or other events. For FY94, for example, Metro Station Policy Areas were adopted for Grosvenor, White Flint and Twinbrook following the adoption of the North Bethesda-Garrett Park Master Plan and Glenmont is now under consideration in conjunction with the preparation of the Glenmont Sector Plan (see Issue 3).

Proposed Derwood/Shady Grove Policy Areas

	Jobs	Housing
Shady Grove *(proposed)*	**Jobs**	**Housing**
1994 Base	5,890	6
Pipeline (3/31/95)	0	0
Derwood *(proposed)*	**Jobs**	**Housing**
1994 Base	17,305	5,677
Pipeline (3/31/95)	2,569	84
Derwood/Shady Grove *(current)*	**Jobs**	**Housing**
FY96 Draft Ceilings	25,088	7,142
FY96 Draft Net Remaining Capacity	-676	1,375

Annexation Issues

Located between the Cities of Rockville and Gaithersburg, annexations of parts of the proposed Shady Grove Policy Area are in varying stages of discussion. The 440-acre King Farm, which comprises a large part of the proposed policy area and the lion's share of the vacant land, is reportedly near an agreement with the City of Rockville regarding annexation. Until such an agreement is completed, however, Planning staff is proceeding under the assumption that the King Farm will remain in the County. Nevertheless, staff has considered the impact of the possible annexation of the King Farm. An important question is whether it will be useful to establish a policy area at Shady Grove even if the King Farm is annexed. Planning staff believes that a King Farm annexation might lessen the urgency for establishment of a Shady Grove Policy Area, but it would not lessen the usefulness, since redevelopment of the other parcels within the proposed area is a also a goal of the County.

Staging Ceilings

Planning Department staff tested several scenarios to determine if additional staging ceiling could be provided to the proposed Shady Grove Metro Station Policy Area and concluded that it could not. Planning staff initially tested current staging ceilings with

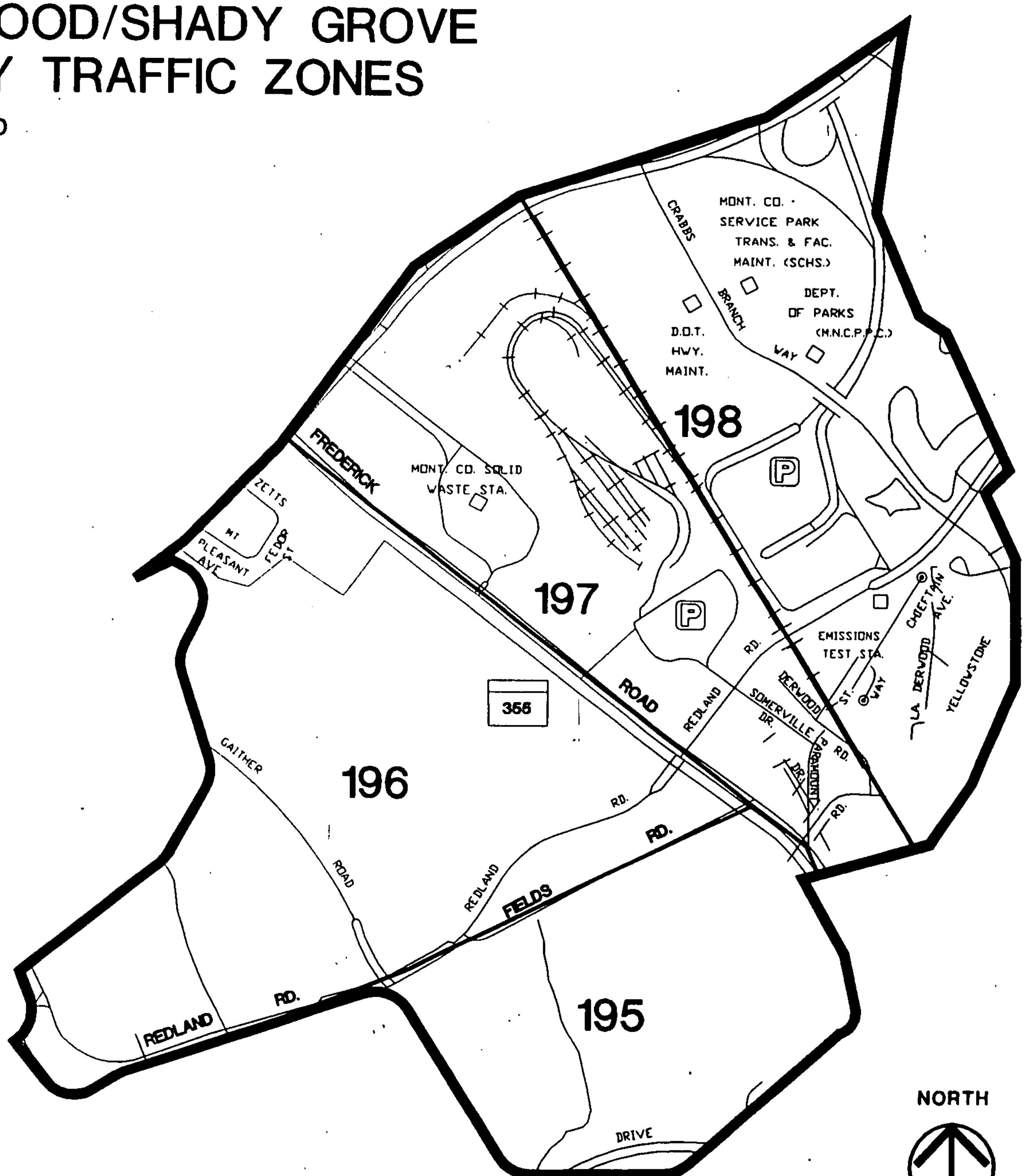
the existing and approved background land use; that is, the current situation except with the Shady Grove policy area broken out from the existing Derwood/Shady Grove Policy Area. Under this scenario, current staging ceilings result in the two policy areas meeting their TTLOS standard of 0.585.

The second two scenarios tested by the Planning Department staff sought to determine if additional capacity could be allocated to the proposed new Metro Station Policy Area. In theory, clustering additional development around Metro Stations could provide additional efficiencies in the overall transportation network. Staff tested increasing Shady Grove's jobs ceiling by 2,500 and 5,000 and Shady Grove's housing ceiling by 1,200 and 2,000. These scenarios all resulted in a worsening of the transportation level of service in Shady Grove, the remaining Derwood area, and Rockville City to levels well above the 0.585 standard.

Planning Department staff was unable to complete its tests of various scenarios for allocating existing housing capacity in Derwood/Shady Grove between the two new proposed areas in time for inclusion in this report. Staff will have a full report prepared prior to Planning Board consideration of this issue.

PROPOSED DERWOOD/SHADY GROVE POLICY AREAS BY TRAFFIC ZONES

MONTGOMERY COUNTY, MARYLAND



POLICY AREA BOUNDARIES

TRAFFIC ZONE BOUNDARIES

264 TRAFFIC ZONE NUMBERS

NO SCALE

SOURCE: MONTGOMERY COUNTY PLANNING DEPARTMENT MARCH 1995

Glenmont Policy Area

The Planning Department's analysis suggests that creation of a Metro Station Policy Area at Glenmont could be an appropriate tool for achieivng the aims of the Glenmont Sector Plan now under preparation. However, staff believes it would be premature to establish the policy area until the Sector Plan has been adopted.

The extension of the eastern leg of Metrorail's Red Line to Glenmont is scheduled to be completed in mid-1998. In anticipation of the new station, a new Glenmont Sector Plan is being prepared to determine, among other things, the extent to which the new station should be a spur to new development or redevelopment, including what kind of development and at what density.

Like any major transportation facility, the Glenmont Metro Station will provide significant additional development capacity to the policy area in which it is located. One issue for Glenmont is whether that additional capacity should be allocated to the existing Kensington/Wheaton policy area, where Glenmont is located, or to a new, compact policy area immediately surrounding the Metro station.

However, development capacity questions are less critical in Glenmont than they are in other policy areas. There is currently little competition for existing development capacity in Kensington/Wheaton, and the opening of the new station will provide sufficient capacity to support the buildout of a very wide range of Glenmont Sector Plan alternatives.

If development or redevelopment is to be encouraged in Glenmont, that encouragement will likely come from the greater ease with which developers can meet Local Area Transportation Review (LATR) conditions in Metro Station Policy Areas. Metro Station Policy Areas have less stringent intersection congestion standards and developers have more flexibility in meeting LATR standards. They can either construct needed intersection improvements or take advantage of the Alternative Review Procedure for Metro Station Policy Areas.

Planning staff believes it may be premature to establish a policy area in Glenmont prior to the adoption of the Sector Plan, since it is possible that a Plan will be adopted that can be implemented without establishing a policy area, or with different characteristics (boundaries, staging ceilings) than now envisioned. However, this will be the last AGP Policy Element before the Sector Plan is completed and it is certainly useful to explore the policy area issue prior to the Plan's consideration.

The staff draft of the Glenmont Sector plan is expected to be released September 1; and adoption of the Plan is currently scheduled for November 1996.

Current Kensington/Wheaton Policy Area Ceilings

Kensington/Wheaton has never been in subdivision moratorium for jobs or housing units. For FY95, the net remaining capacity for housing stands at 1,816 units and the net remaining capacity for jobs is 2,590.

Demand for capacity in K/W has been modest in recent years, because the policy area is already well-developed. There are 622 housing units and 272 jobs in the K/W pipeline and, at 311 housing units and 221 jobs, the K/W queue is easily accommodated by existing capacity.

Glenmont Policy Area Boundary Issues

Policy areas are composed of traffic zones, which are small geographic areas with similar transportation usage and service characteristics. To facilitate the study and creation of a new policy area in Glenmont, Planning staff created seven new traffic zones in the Glenmont area. Taken together, the boundary of the seven zones is the same as the Glenmont Sector Plan Area.

As discussed in Issue 2: Shady Grove Policy Area, Metro Station Policy Areas are intended to be compact -- generally within walking distance of the Metro Station. In evaluating possible boundaries for a Glenmont policy area, Planning staff reviewed the 1978 Sector Plan for the Glenmont Transit Impact Area and Vicinity. In that document, the "primary impact area" of the Metro station was a circle centered over the Metro station site with a 2,000 foot radius. Six of the seven Glenmont traffic zones are contained, in whole or in part, by that circle. The remaining traffic zone, number 405, is the area to the north of Briggs Road and to the West of Layhill Road. However, no point in the Sector Plan Area is more than 1 mile from the Metro station site.

A substantial fraction of the Sector Plan Area does include established single-family neighborhoods that are unlikely to be recommended for redevelopment. However, because Sector Plan issues have yet to be resolved, Planning staff elected to study a proposed Glenmont Policy Area with boundaries consistent with the Sector Plan Area. This area is approximately 568 acres in size (exclusive of rights-of-way), which is approximately 80 acres larger than the Wheaton CBD policy area. Upon adoption of the Sector Plan, it can be determined if the policy area should be more compact than the Sector Plan Area.

Development Capacity Resulting from Glenmont Metro Extension

How much development capacity can be expected from the extension of the Red Line to Glenmont was addressed in the FY95 Final Draft AGP. At that time, the Planning Board addressed the question of whether to "count" the Glenmont Metro extension for FY95 or whether to wait until the Glenmont Sector Plan is adopted. Although the County Council elected to wait, the development capacity analysis that was performed is illustrative.

In and of itself, the extension of Metrorail will initially result in only a modest modest change in traffic patterns and transit use. Clearly, many bus riders will transfer to the Red Line at Glenmont rather than Wheaton, and similarly, many Park and Ride commuters will use the new station, The number of new riders on the system will, at first, be small and traffic impacts marginal. The Glenmont Sector Plan will review the land use and transportation recommendations for the immediate area around the station.

However, the Glenmont Metrorail extension is the last major transportation facility to be constructed in the Kensington/Wheaton policy area. Aside from from the new station, the only currently-planned transportation facilities yet to be constructed are primary residential streets, for which additional staging ceiling is not generally allocated. Because of this, Planning staff tested the estimated zoned holding capacity for both Kensington/Wheaton and Wheaton CBD and found that it could be supported while maintaining transportation facilities adequacy. Raising the staging ceilings in K/W to the zoned holding capacity would add 5,000 housing units and 11,350 jobs; in Wheaton CBD it would add 100 housing units and 1,000 jobs.

Kensington/Wheaton and Glenmont Policy Areas

Glenmont *(proposed)*	**Jobs**	**Housing**
1994 Base	756	3,136
Pipeline (3/31/95)	0	139
Remaining K/W *(proposed)*	**Jobs**	**Housing**
1994 Base	12,643	29,906
Pipeline (3/31/95)	272	483
K/W *(existing)*	**Jobs**	**Housing**
Draft FY96 Ceilings	12,643	29,906
Draft FY96 Net Remaining Capacity	272	483

Planning staff's analysis was performed when Policy Area Transportation relied on the transit level of service "group" system for determining a policy area's allowable traffic congestion. At that time, the auto congestion standard for Kensington/Wheaton was 0.77, or LOS "D." Under the current system, which is designed to be more sensitive to non-auto modes of transportation, the auto congestion standard is 0.69, which is more stringent.

Planning Department staff retested various scenarios for the proposed Glenmont Policy Area counting the completion of the Glenmont Metro Station. The goal is to provide information that will be useful in determining if the Plan should call for the creation of a Glenmont Policy Area.

With the new TTLOS standard, staff tested the hypothesis that the Metro Station would provide capacity for the buildout of the Kensington/Wheaton, allocating the capacity in three different ways. Each succeeding scenario allocated more of the proposed capacity to the Glenmont Metro Station Area

Staff's analysis showed that somewhat less than capacity for full buildout of the Kensington/Wheaton Policy Area can be expected from the opening of the Metro station. The difficulty is the upstream traffic in Aspen Hill: additional jobs and housing units in Kensington/Wheaton and/or Glenmont attract additional trips through Aspen Hill, worsening its already low transportation level of service.

Staff's analysis also showed that, when the County allocates the additional capacity from the Metro Station opening among K/W, Wheaton CBD, and the proposed Glenmont Policy Area, there are significant benefits to clustering the new capacity around the Metro stations. For example, a shift of jobs from K/W to Glenmont improved K/W's

total transportation level of service but the effect of clustering development at the Glenmont Metro Station on Aspen Hill was minimal.

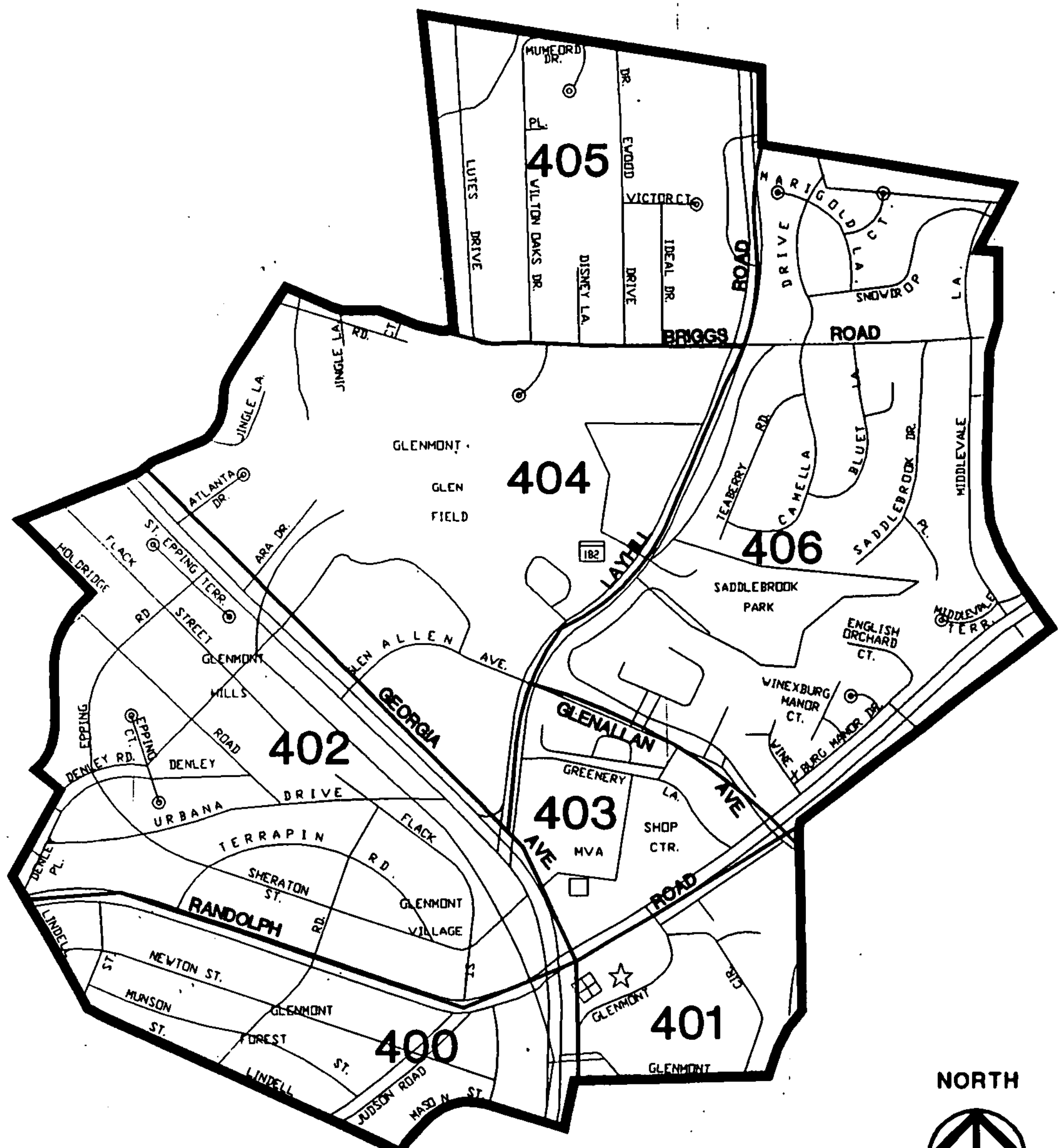
Planning Department Recommendations

Planning staff will continue to test scenarios for Glenmont during discussion of this document and preparation of the Master Plan. The results of these scenarios will available at significant points in the review of this document (Planning Board consideration, Executive consideration, public hearing, and County Council consideration).

The current master plan schedule will see adoption of the Glenmont Sector Plan prior to the next AGP Policy Element. The Planning Department suggests that the issue of a Glenmont Policy Area be taken up as an AGP Amendment, to be scheduled for review by public officials upon adoption of the Glenmont Sector Plan.

PROPOSED GLENMONT POLICY AREA BY TRAFFIC ZONE

MONTGOMERY COUNTY, MARYLAND



▬ POLICY AREA BOUNDARIES

— TRAFFIC ZONE BOUNDARIES

264 TRAFFIC ZONE NUMBERS

NORTH

NO SCALE

SOURCE: MONTGOMERY COUNTY PLANNING DEPARTMENT MARCH 1995

Ceiling Flexibility - School Facilities

The staff working group has not reached consensus on an appropriate mechanism for allowing developers to contribute to school facilities in order to gain subdivision approval in areas where school facilities are inadequate. The working group will continue to meet to resolve this issue.

The County Council directed "the staffs of the Board of Education, the Executive, the Planning Board and the County Council [to] continue to evaluate options for a potential ceiling flexibility provision in the APFO school test. The staff group must report its options and findings to the Council's Education Committee. If sufficient consensus exists on an option, Planning Staff must include it in the Staff Draft of the next Annual Growth Policy to solicit public comment."

Although no policy area is currently in moratorium due to inadequate school facilities, school enrollments continue to increase rapidly. If a moratorium based upon inadequate schools were to occur, the County has no mechanism for permitting developers to provide the needed school facilities.

The staff working group has reviewed the issues related to ceiling flexibility for school facilities and was unable to reach consensus in time for inclusion in this document. The working group plans to continue working to address this issue. Currently, no area of the County is in moratorium for new subdivision approvals because of inadequate school facilities.

Issue Five

Ceiling Flexibility - De Minimis Impacts

The Planning Department recommends that eligibility for *de minimis* approvals be limited to projects generating five or fewer peak hour, peak direction automobile trips. The Planning Department recommends that existing outlots created as a result of the current provisions of the *de minimis* rule be permitted to develop upon payment of the Development Approval Payment.

The *de minimis* rule permits small scale development to move forward without being tested for transportation facilities adequacy. The accepted size limit for *de minimis* development is that which generates five or fewer peak-hour, peak direction vehicle trips (4 detached housing units, for example).

The *de minimis* rule is an exception to the Policy Area Transportation Review (staging ceiling) provisions of the Annual Growth Policy and has been part of the AGP since its inception. The principle behind the *de minimis* rule is that micro-management by the AGP of very small scale development is costly to both the County and the developer, but does not yield significant benefits in terms of maintaining public facilities adequacy.

The *de minimis* rule applies only in policy areas are in moratorium for new subdivisions because their roads are overly congested. The rule states that in these areas "all land at one location for which zoning or other constraints permit no more than ten trips may receive approval of up to five trips." This translates into 4 detached housing units (as each housing unit generates 1.1 trips) and 2,400 square feet of office space.

The five trip limit was selected as an appropriate definition of development that has essentially no impact on a policy area's roadway congestion. The cumulative impact of multiple *de minimis* approvals in a policy area was a factor in the selection of the five trip limit.

The *de minimis* rule does not discount the first five trips of every new subdivision. Rather, it discounts the first five trips of every subdivision *generating ten trips or less*. The idea was to let part of a ten-trip subdivision move forward even if development of the entire subdivision was considered to have too large a negative impact. The remaining lots become "outlots" which cannot be developed until a) the public sector provides the infrastructure needed to lift the moratorium or b) the developer provides the infrastructure needed to support the development.

In areas where it is available, the developer could also make use of the Alternative Review Procedures for Limited Residential Development, which permits approval of

subdivisions in moratorium areas when a fee is paid. This procedure is not available in Aspen Hill or Fairland/White Oak, because of the length and depth of their moratoria.

This means that outlots are particularly an issue in Aspen Hill and Fairland/White Oak.

Background

The current round of discussions on the *de minimis* rule began in 1993 with a request by Mr. Leslie Lutor that the County Council consider revising the rule to permit him to build on an outlot in the Duvall Farm subdivision in Fairland/White Oak. In a letter to the Planning Board Chairman, then Council President Marilyn Praisner requested information regarding the policy and legislative implications of Mr. Lutor's request.

Acting Chairman Floreen's response in a letter dated January 24, 1994 and addressed to the new Council President William E. Hanna, Jr. The letter notes that the *de minimis* provision permits development in moratorium areas to occur without contributions toward the transportation infrastructure needed to support that development. The letter suggests that the five trip limit is a reasonable cut-off point, after which development is large enough that contributions toward transportation infrastructure should be required in moratorium areas. Finally, the letter proposes that the "outlot" problem be addressed at the five trip level or, alternatively, the entire issue be re-examined in 1995 when AGP policy changes are next considered.

During the County Council's work sessions on the AGP in July, 1994, the issue of the *de minimis* rule was again raised. The County Council agreed to add the *de minimis* rule to the list of policy issues to be addressed in 1995. However, they also discussed Council staff's assertion that the AGP, as currently worded, already gave the Planning Board the option of approving development that would generate up to ten trips. Council President Hanna transmitted this view to the Planning Board in a letter dated July 12, 1994.

The Planning Board discussed this issue at its regular meeting on September 29, 1994. In addition to Mr. Lutor, Ms. Barbara A. Sears, an attorney representing Greenhill Capital Associates (owners of property in Aspen Hill), testified to the hardships created by the *de minimis* rule's provision that results in the creation of unbuildable outlots for which infrastructure is nevertheless required.

Although the Board indicated that it might view a more flexible *de minimis* rule favorably, it did not agree that the current wording in the AGP gave it the flexibility to approve development generating greater than five trips. In a letter to Council President Hanna, the Planning Board requested that the "flexibility desired by a majority of Councilmembers in administering the de minimis rule...be accomplished by an amendment to the AGP." Councilmember Hanna introduced such an amendment in December of 1994.

At the January 31, 1995 County Council public hearing on the *de minimis* rule, the Planning Board recommended that the 5-trip limit be retained and that the 45 existing outlots be permitted to develop if they made a contribution to the County's transportation infrastructure through the Development Approval Payment (DAP). No new outlots

would be created under the Board's proposal because eligibility would be limited to five-trip subdivisions, which could be approved in total.

The County Executive recommended that the Council adopt the ten-trip amendment but suggested that consideration be given to treating the ten trips as a guideline rather than a strict limit. This would allow the Planning Board to consider "slightly larger projects, if it can be shown that the impact is insignificant." The Executive suggested that criteria for determining which projects have "significant" impacts could be based on Local Area Transportation Review congestion standards, rather than an absolute number of trips.

Following the public hearing, the Planning, Housing, and Economic Development Committee held a worksession on the *de minimis* rule. The Committee developed an alternative amendment which would raise the limit on the number of trips than could be approved under the *de minimis* rule to ten, as Mr. Hanna proposed, but would require that the developer pay the DAP for each trip above five.

Subsequently, during its worksessions on the AGP amendment, the Council elected to defer further consideration of the *de minimis* rule until the AGP Policy Element.

Since considerable analysis has already been done on this issue, Planning staff's approach in this document is to restate the conclusions of staff's previous analysis and then focus on questions and issues raised during and after the public hearing by the County Council, the Executive, and their staffs. In reviewing these issues, staff limited itself to considering:

- the current approach, which is a ten-trip limit on eligibility but a five-trip limit on approvals;
- a five-trip limit for both eligibility and approval;
- a ten-trip limit for both eligibility and approval;
- a guideline instead of a strict limit, with criteria established to determine when the Planning Board could consider approving projects with slightly more than the guideline;
- the outlot question; and
- the implications of using the Development Approval Payment as a temporary or long-term method for allowing existing outlots and/or requiring some future *de minimis* lots to make a contribution to transportation infrastructure to gain approval.

A Five-Trip Limit for Both Eligibility and Approval

The Planning Department's recommended approach would revise the current *de minimis* rule only to the extent that the problems with outlots are eliminated. In other words, staff recommends that the current five-trip limit for *de minimis* approvals also be applied to *de minimis* eligibility requirements. Currently, ten-trip projects are eligible for the de minimis provision, but only 5 trips can be approved.

This is identical to the Planning Board's recommendation of January 1995.

Planning staff recognizes that five trips is a policy decision, rather than a technical one, since the impact of one or two or even five additional trips on a policy area's congestion level is difficult measure with precision. In a sense, no matter what limit is selected, there will always be some debate about projects which are only a few trips over that limit.

Staff believes the issue is clarified somewhat by the fact that *de minimis* approvals only occur in policy area where traffic congestion is at its worst. That has the effect of magnifying the impact of each additional trip. More specifically, increasing the *de minimis* limit would primarily affect Aspen Hill and Fairland/White Oak, since the Alternative Review Procedure for Limited Residential Development is available in all other areas. These areas are both deeply in subdivision moratorium and few would argue that traffic congestion approaches adequacy. Providing new opportunities for development to proceed in these areas without contributing to the transportation infrastructure will only worsen the situation, however "small" that worsening is.

A Ten-Trip Limit

Raising the limit on the number of trips that could receive *de minimis* approval from five to ten trips would no longer create outlots because property that would generate more than ten trips would not be eligible for approval. In addition, the 45 outlots that currently exist would be permitted to be developed.

If approved, the provision would allow the approval of up to nine detached housing units and 4,600 square feet of office space. The table to the right shows the sizes of that would be approvable under a ten-trip limit.

The demand for *de minimis* approvals presumably will be greater if the trip limit is raised to ten; unfortunately a valid estimate of this demand is not possible. Looking at the sizes of development projects in the current pipeline, however, gives some guidance as to what could be expected.

Maximum Development Permitted Under De Minimis Rule Options

Land Use	5 Trips	10 Trips
Office	2,400 sf	4,600 sf
Retail	420 sf	840 sf
Detached Homes	4 units	9 units
Townhouses	6 units	12 units
Garden Apartments	11 units	21 units
Hi-Rise Apartments	11 units	22 units

Source: MCPD Transportation Planning Division

Approximately 1.4 percent of the housing units in the current pipeline were approved as part of a project that consisted of five to nine units at approval. Projects of this size would be permitted to develop with a ten-trip limit, but have not been permitted under current procedures.

Of course, not all projects in the current pipeline made use of the *de minimis* rule, since *de minimis* approvals only occur in policy areas in moratorium. But the chart to the right shows that only a very small percentage of housing approvals are in the affected size ranges.

Housing Units in Current Pipeline in Projects Generating up to 5 Trips

Type	Units	% of Total
Detached Homes	972 units	1.8
Townhouses	6 units	--
Multi-Family	3 units	--
Total	981 units	1.8

Source: MCPD Research Division

Housing Units in Current Pipeline in Projects Generating up to 10Trips

Type	Units	% of Total
Detached Homes	1,749 units	3.2
Townhouses	34 units	--
Multi-Family	3 units	--
Total	1,786 units	3.2

Source: MCPD Research Division

On the commercial side, the amount of the currently-approved pipeline that generates 5 to 10 peak hour trips is very small: twelve office projects totalling 25,268 square feet.

Guidelines Versus Limits

The County Executive proposed ten trips as a guideline [Planning staff's word] for *de minimis* approvals, rather than a strict limit. Small projects generating a few more than ten trips would be eligible for approval under certain circumstances. The Executive suggested that congestion conditions at nearby intersections could be appropriate criteria for determining which projects would receive approval of more than ten trips.

Of course, the concept of a guideline could be used for any level of trips: five, ten, or any other number. Therefore, staff looked at guidelines versus strict limits as a separate issue, apart from what the guideline might be.

The language in the AGP's *de minimis* provision refers to the fact that *de minimis* approvals are to be considered by the Planning Board on a "case-by-case basis." That language suggests that there are additional criteria the Planning Board could use to determine the number of lots that can be approved under the *de minimis* rule. In theory, the Board is allowed to approve fewer than the requested units, if it elects to consider other factors. In practice, the Board has not developed such criteria because they have limited utility when the upper limit is five trips.

Assuming that a guideline approach is desirable, the question remains as to what factors should be considered when determining if larger projects should be approved. Traffic congestion conditions are a logical answer, since *de minimis* approvals are an exception to transportation tests. Staff looked at two options: one based on Policy Area Transportation Review (PATR) and another based upon Local Area Transportation Review (LATR).

PATR: One option would be to allow *de minimis* approvals slightly over the guideline when the policy area is only "slightly" in moratorium; for example, less than 250 jobs or housing units. This would protect policy areas where traffic congestion is at its worst. Cloverly is a current example of a policy area that is "slightly" in moratorium: it has a net remaining capacity for housing of -51.

LATR: Another option would be to consider local intersection conditions when deciding if projects larger than the guideline could be approved. If there were no nearby intersections below standard, then the full project could be approved. With this approach, some questions arise.

- *How would intersection conditions be determined?* Unless Planning staff or another developer has performed a study of the affected intersections within the

last six months, a new study would have to be done to make the *de minimis* ruling. Many of the County's intersections do not have up-to-date studies. Such a study would include traffic counts and analysis of "background" traffic due to approved but not yet built development. Whether Planning staff or the developer is required to prepare the traffic study, it will represent a significant outlay of resources considering the amount of development in question. Local Area Transportation Review is currently required only for projects generating 50 or more trips, in part because the determination of local intersection conditions is not economical for very small amounts of development.

- *What happens when an intersection fails the test?* Should the developer be able to make the needed improvements? It is highly likely that such improvements would not be economical, but should the possibility be precluded? If the guideline is ten trips and a twelve-trip subdivision fails, would ten of the trips be approved and the remaining trips become outlots? Or would the entire project be denied approval?

There are certain parallels to the two options: a development projects is more likely to fail the intersection test when the policy area is deeply in moratorium.

Outlots by Policy Area

Policy Area	Outlots
Damascus	4
Fairland/White Oak	17
Olney	16
Aspen Hill	8
Total	45

Source: MCPD Research Division

Planning staff remains troubled by the idea of increasing the number of *de minimis* subdivision approvals in moratorium areas, and for this reason does not favor the guideline approach. However, if the idea is adopted, staff would recommend that the guideline be set at 5 trips, with no more than three additional trips available to projects meeting the special criteria. Staff would also suggest that under no conditions should outlots be created, which would mean that a subdivision would not be approved at all unless it could be approved in total. Staff would also recommend that the "special criteria" be based upon depth of moratorium, since that option is comparable to the LATR option but much easier and cheaper for all concerned to use.

The Outlot Question

Planning Department staff continue to recommend that any *de minimis* provisions adopted not create any additional outlots. In other words, staff believes, on the basis of developer testimony, that partial approval of very small subdivisions has not worked. The site preparation expenditures required for a portion of a small subdivision may nearly equal that for the subdivision as a whole. In some cases, it may also be an extra burden on smaller subdivisions when a portion is not constructed for a considerable period of time after the project was started.

As in January, Planning staff recommended that this be accomplished by restricting *de minimis* approvals to those projects that can be approved in total. If the five-trip limit is retained, then only five trip projects should be eligible for approval. If a ten trip limit is chosen, then a ten-trip eligibility requirement. If a guideline approach is to be used, then projects larger than the guideline should not be approved at all if the project cannot be approved in total.

If the five-trip limit is retained, there remains the question of the 45 outlots created from 1986, when the *de minimis* rule was established, to the present. Planning staff supports allowing these outlots to move forward upon payment of the Development Approval Payment.

Staff is aware that the revenues from these lots will not be sufficient to finance needed improvements in each of the policy areas. The estimated revenues from 45 lots (if all proceeded) is $340,000. However, staff has been convinced that the outlots should be permitted to move forward, but should make a contribution of some kind to the transportation infrastructure before doing so.

This is identical to the Planning Board's recommendation at the January 31, 1995 public hearing.

Implications of Using the DAP as a Substitute for Infrastructure Provision in De Minimis Approvals

The PHED Committee suggested a two-tier approach to *de minimis* approvals: the first five trips would be "free" and the second five trips would be subject to the Development Approval Payment. This was seen as a compromise solution since it raised the *de minimis* rule limit to ten trips as Mr. Hanna had proposed but required contributions toward the County's infrastructure, as the Planning Board suggested. However, adoption of this approach would greatly expand the use of the DAP beyond what the Planning Board had envisioned. During the Council worksessions on the *de minimis* rule, questions arose as to the implications of using the DAP in this manner.

The DAP is used for two alternative review procedures in the AGP: one for Metro station policy areas, another for limited residential development. The residential development option is scheduled to sunset at the end of FY96.

Use of the DAP in the *de minimis* rule resembles, but is not dependent upon, the Alternative Review Procedure for Limited Residential Development. The DAP was established by separate legislation and would survive a sunset of the Limited Residential Development procedures because it is also used for the Metro station policy area procedure. A more fundamental question is whether the County should consider using a pay-and-go approach to transportation infrastructure for *de minimis* approvals.

To answer this question, a distinction may be made between staging ceiling and LATR conditions. Should the DAP be used to purchase staging ceiling on an ongoing basis? In the Metro station procedure, payment of the DAP does not provide staging ceiling, but rather helps meet LATR conditions. It is only in the scheduled-to-sunset residential development procedure that the DAP buys staging ceiling. This procedure was intended as a temporary spur to residential development.

Some of the reasons arguing for the use of the DAP to meet LATR conditions in Metro Station Policy Areas are peculiar to those areas. The County's policy is to encourage higher density development in these areas and intersections improvements are especially difficult and expensive to make where higher density development has occurred. Additionally, there are instances when intersection improvements designed to speed traffic would have a negative impact on the pedestrian environment. With this need for flexibility, it make sense for the County to be collecting revenues from development and determining where and which improvements should be made. Issue 7 specifically dis-

cusses the application of the Alternative Review Procedure for Metro Station Policy Areas to other policy areas.

Although they can be costly, LATR conditions are generally inexpensive compared to improvements which raise a policy area's staging ceiling (especially on a per-trip basis). For one thing, LATR only applies to projects that generate at least 50 trips whereas staging ceiling is required of projects generating more than 5 trips. In addition, staging ceiling cannot be produced in very small increments (staff generally does not allocate staging ceiling in units of less than 250 jobs or housing units). So while, roadway improvements are expensive and create a relatively large amount of capacity, *de minimis* projects require a comparatively small amount of capacity and pay a proportionately small amount towards infrastructure. Only if many *de minimis* approvals occur in a single policy area will there be a good match between DAP revenues and the cost of needed improvements. It is more likely, though, that *de minimis* approvals (and DAP revenues) will be few and scattered.

If the Alternative Review Procedure for Limited Residential Development does not sunset after FY96 as currently scheduled, the County may be able to achieve the necessary economies of scale because the revenue stream will likely be larger. Planning staff discusses the issues involved in extending the life of the Alternative Review Procedures for Limited Residential Development in Issue 7.

Of course, as difficult as it is for the County to make cost-effective infrastructure improvements to support small development projects, it is no easier for the small development projects to make the infrastructure improvements needed to raise a policy area's staging ceiling. Therefore, the smaller projects generally must wait for publicly-funded infrastructure before moving ahead. In some policy areas, this wait has been a long one.

Traffic mitigation is an alternative; the County could use DAP revenues to selectively increase bus service, for example, on routes that serve the approved development. This would allow the County more flexibility in allocating DAP revenues. The DAP revenues would not be sufficient to continue the service in perpetuity, however, so eventually the County would either have to pick up the tab or discontinue the service.

Planning staff is not recommending that the *de minimis* limit be raised to ten trips, but if the limit is raised, staff would recommend that projects be required to contribute to County's infrastructure, either a) by requiring that the DAP be paid for the additional trips (trips 6-10), or b) requiring that the DAP be paid for all lots approved under the *de minimis* rule (trips (1-10). However, staff would caution against any expectation that the DAP revenues from *de minimis* approvals will be sufficient to pay for the improvements needed to support the new approvals, unless expansion of use of the Alternative Review Procedures is also adopted.

Alternatives for the Planning Board

The Planning Board may wish to reaffirm its January recommendation regarding the de minimis rule, recommend one of the alternatives discussed, or develop a new recommendation on this issue.

Retention of Little-Used AGP Provisions

The Planning Department recommends that the County modify the AGP Resolution to revise the Special Ceiling Allocation for Health Care Facilities and eliminate the Ceiling Flexibility for Partial Cost Developer Participation provision.

Two provisions in the Annual Growth Policy are being considered for deletion because they are not being used. The first is the Special Ceiling Allocation for Health Care Facilities, which allows the Planning Board to approve certain health care facilities in policy areas that are otherwise in moratorium for jobs. There was one approval under this provision. The second is the Ceiling Flexibility for Partial Cost Developer Participation, which sets forth guidelines under which the infrastructure required by a development project could be funded partially by the developer(s) and partially by the County. It has never been used.

Planning staff is recommending that the Special Ceiling Allocation for Health Care Facilities be retained as this provision implements the health care facility provisions of the adequate public facilities ordinance. However, staff recommends that the bulk of the text be deleted from the AGP resolution and that the provision survive as guidelines for the Planning Board's consideration of health care facilities in moratorium areas. Staff recommends that the Ceiling Flexibility for Partial Cost Developer Participation provision be eliminated because, in addition to having never been used, much of what it was intended to accomplish can be achieved through other means.

Special Ceiling Allocation for Health Care Facilities

As required by the Adequate Public Facilities Ordinance, health care facilities are implicitly tested for adequacy each year. In practice, this means that health care facilities are presumed to be adequate unless inadequacy can be demonstrated. The County has never developed an explicit test for health care facilities, nor has the County imposed a subdivision moratorium due to health facilities inadequacy.

A major reason for County's treatment of health care facilities is that they are different in character from other facilities the County tests because they are provided to a great extent by the private sector. An explicit test requires specific definition of health care facilities adequacy, a definition that has to be fairly basic to be implementable. The County would also have to declare under what conditions it would be willing to impose a subdivision moratorium if health care facilities became inadequate.

Recognizing that health care facilities encompass a wide variety of facilities, not all of which can or should be monitored or tested for adequacy, the County has elected to use other mechanisms for ensuring the adequacy of health care facilities. One of the ways this is done is by permitting needed health facilities to be developed in policy areas that are otherwise in moratorium for jobs. "Needed" is the important term. The County recognizes that it is far more efficient to test for need when a health care facility is proposed than to regularly test for adequacy Countywide.

The Special Ceiling Allocation for Health Care Facilities was adopted as an amendment to the FY90 AGP. The text contains very specific guidelines for determining whether a health care facility is needed (see text of provision on pages 12-15 of adopted AGP). It reviews the possibility that existing or already-programmed space could be used for health care facilities and it provides safeguards which limit approvals to no more than 50 jobs per policy area and 100 jobs Countywide during any fiscal year.

On the whole, Planning staff believes this provision is well-crafted and is a reasonable method for determining when the need for certain health facilities outweighs the need to enforce a subdivision moratorium. Staff also notes that if the special ceiling allocation is eliminated, the AGP's review of health facilities adequacy will be very limited. In general, that is appropriate, since the fact that the provision was used just once, and the fact that health facilities adequacy is not closely monitored, suggest that there is no general shortage of health care health facilities in the County.

However, it is likely that there are, or will be in the future, areas in the County that do not have a full complement of health services within a convenient service area. It is appropriate for the County to respond affirmatively when the private sector wishes to provide a needed health facility. The benefits that accrue include increased convenience and shorter travel trips.

Planning staff also recognizes that removing the provision from the AGP will streamline the document, which has tended to get longer and more complicated every year or two. Therefore, Planning staff recommends that the Special Ceiling Allocation for Health Care Facilities provision be replaced with a short paragraph stating that the Planning Board may consider such approvals pursuant to the guidelines first established by the County Council in its amendment of the FY90 AGP.

Ceiling Flexibility - Partial Cost Developer Participation

The Ceiling Flexibility - Partial Cost Developer Participation provision of the AGP was an amendment to the FY89 AGP. It began as a proposal by County Executive Kramer that would have provided for a County Council determination that staging ceilings could be exceeded on a case-by-case basis, using certain broad public policy criteria (primarily economic development-based). That proposal evolved into the current provision, which sets forth guidelines under which the public and private sector can jointly provide infrastructure needed to support development.

Four kinds of development are eligible for partial cost developer participation, although the categories overlap somewhat. In summary, they are:

- development intended for pre-identified new employers or the consolidation/expansion of existing employers. The development must have a staging plan that goes beyond four years;
- planned development of superior and integrated design and/or transit serviceability. The development must be in certain zones (town sector, MXPD, PRC, TSM, and TSR) and have a staging plan that goes beyond four years;
- the project is located in the R&D Village or the Germantown Town Center.

Employment or Planned Development Projects With 4-Year Staging Plans

This provision of the partial cost developer participation provision was intended to encourage existing employers to expand within the County, encourage new employers to locate within the County, and encourage superior design and transit serviceability in larger projects. The provision is only available to projects with a staging plan longer than four years, which would be larger, more significantly-sized projects.

On October 5, 1994, the County's new development district legislation went into effect. The legislation creates a major new mechanism for funding infrastructure improvements needed to support growth in areas expected or encouraged to undergo intensive development. The development district legislation permits public-private partnerships in the funding of the needed capacity and, in total, is an expanded and more flexible method of providing infrastructure than the partial cost developer participation provision.

Planning staff believes that the development district option is an effective and improved alternative to the partial cost developer participation provision.

Projects Located in the R&D Village or Germantown Town Center

Over the past six years, the development capacity situation in the R&D Village and the Germantown Town Center has changed significantly. In FY89, the R&D Village was part of the Gaithersburg West policy area, which had a net remaining capacity of 1,576 housing units and 4,713 jobs. The policy area went into moratorium for housing in FY90 and into moratorium for jobs in FY91. In FY92, the R&D Village policy area was created, which was immediately put into moratorium for both jobs and housing. In FY94 however, the area came strongly out of moratorium for both jobs (net remaining capacity: 8,650) and housing (net remaining capacity: 3,615).

The adopted FY89 AGP showed Germantown West (the Town Center was not a separate policy area until FY92) with a net remaining capacity of 2,015 jobs and 543 housing units. However, by FY91, it was in moratorium for both jobs and housing. When the Town Center was created in FY92, its net remaining capacity was set a zero. Since then, the County programmed sufficient transportation facilities to permit the buildout of the Town Center. The net remaining capacity in the area is now 1,764 housing units and 3,901 jobs.

With buildout already supported in the Germantown Town Center and with 8,650 jobs and 3,615 housing units available in the R&D Village, there is no impetus for devel-

opers to need the additional ceiling provided by the partial cost developer participation provision.

Conclusion

Planning staff's recommendation is to eliminate the partial cost developer participation provision and to retain the special ceiling allocation for health care facilities only as guideline to be used if the need arises. The Planning Board may wish to adopt staff's recommendations, retain or eliminate both provisions, or request further study of these two provisions.

Alternative Review Procedures

The Planning Department recommends that the County continue the Alternative Review Procedure for Metro Station Policy Areas and that the procedure be available in new metro station policy areas as they are created. The Planning Department further recommends that the Alternative Review Procedure for Limited Residential Development be continued for two more years.

The two "Alternative Review Procedures" were added to the AGP in FY94. The goal was to encourage certain types of development by allowing developers to pay a fee to the County rather than construct needed infrastructure. The first, the Alternative Review Procedure for Metro Station Policy Areas, allows developers to meet their Local Area Transportation Review (LATR) obligations by paying a fee, joining a transportation management organization(TMO), and making its best effort to meet mode share goals set by the Planning Board. The second, the Alternative Review Procedure for Limited Residential Development, permits up to 300 housing units to be approved in policy areas in moratorium each year for three years. The developers meet their Policy Area Transportation Review and LATR conditions by paying a fee.

The text of the Alternative Review Procedures is on pages 27 and 28 of the Adopted FY95 Annual Growth Policy.

The Alternative Review Procedure for Metro Station Policy Areas has not yet been used, in part because of market conditions and in part because a TMO has not yet been created for the North Bethesda Metro Station policy areas of Grosvenor, White Flint and Twinbrook. Planning staff continues to support the concept, however, and suggests that the procedure be available in all new Metro station policy areas when they are created. Staff does not believe it would be useful to expand the use of this procedure to town center policy areas or to "regular" policy areas.

Fourteen development projects totalling 633 housing units have taken advantage of the Alternative Review Process for Limited Residential Development. As of April, 1995, only one project has started to get its building permits, so the very first revenues from these units are only now being paid to the County. Because the overall use of the procedure so far has been limited, Planning staff is recommending that it continued it for another two years. Staff would recommend re-evaluating the procedure again at that time to determine if other procedures, such as development districts, have eliminated the need for this Alternative Review Procedure.

Alternative Review Procedure for Metro Station Policy Areas

The County has increasingly taken steps to encourage development to locate in areas where its investment in transportation infrastructure has been greatest; namely, Metro station policy areas. In FY94, the County increased this encouragement with several steps: it created three new Metro station policy areas (Grosvenor, White Flint, and Twinbrook); it raised the Local Area Transportation Review (LATR) standard in these areas to 1800 CLV; and it created the Alternative Review Procedure for Metro Station Policy Areas, which permits a developer to meet his LATR obligations by paying a fee (the Development Approval Payment or DAP), joining a transportation management organization (TMO), and making his best effort to meet mode share goals established by the Planning Board.

The Alternative Review Procedure for Metro Station Policy Areas is currently available in Grosvenor, White Flint, Twinbrook, Wheaton CBD, and Bethesda CBD.

The amount of the DAP was set by County Council legislation in 1994. It is equivalent to the Construction Excise Tax and calculated the same way, but the DAP is independent of the CET (except that payment of the DAP will be credited toward payment of the CET if or when the CET is implemented).

Utility of the Alternative Review Procedure in Metro Station Policy Areas

The County's policy of providing the same Total Transportation Level of Service in all policy areas means that the combination of auto level of service, transit level of service, and pedestrian level of service is roughly equivalent in all policy areas. To illustrate this concept, consider a policy area with a heavy traffic congestion that the County wishes to remedy. The County has the option of improving the roadway network, improving the transit and pedestrian network, or a combination of both.

In the more densely developed Metro Station Policy Areas, intersection improvements, particularly widenings, may not be feasible because of cost or logistics and may not be desirable from a pedestrian point of view. The Alternative Review Procedure for Metro Station Policy Areas increases the flexibility the County has to provide needed local area improvements. At the same time, it encourages development in the areas of the County best served by transit and pedestrian facilities by streamlining the process for passing the LATR test.

The Comprehensive LATR

For the Alternative Review Procedure for Metro Station Policy Areas to work, the Planning Department must conduct a comprehensive Local Area Transportation Review. This process determines the level of service at each intersection in the area and allows the Planning Board to determine what improvements are needed to support the development projects approved.

As its name implies, a comprehensive LATR is labor-intensive. They are generally performed only for relatively compact small areas because the results of a comprehensive LATR are most useful when there are relatively few redevelopable parcels. Compre-

hensive LATRs are usually performed only under special circumstances, such as in support of sector plans.

Expansion of the Alternative Review Procedure for Metro Station Policy Areas to Other Areas

Planning Department staff recommend that the Alternative Review Procedure be continued. Since it has not yet been used, staff's ability to evaluate the success of the procedure is limited. Even so, staff has the following recommendations:

Extend Procedure to New Metro Station Policy Areas When Created

Shady Grove and Glenmont are two proposed new Metro station policy areas. If these or other new Metro station policy areas are created, Planning staff would recommend that the Alternative Review Procedure apply in these areas. The reasons which justify the applications of the procedure in Grosvenor, White Flint, Wheaton CBD, etc., are as applicable to new Metro station policy areas.

Do Not Extend Procedure to Town Center Policy Area(s)

To date, Germantown Town Center is the only town center policy area, although others, such as Clarksburg, have been mentioned as candidates. One could argue that town centers have many of the same features as Metro Station Policy Areas -- they are compact and the County would like to encourage their development. Of course, they differ in a several major ways, most notably the lack of transit facilities. At this time, staff would not recommend the application of the Alternative Review Procedures for Metro Station Policy Areas in town center policy areas since the procedure is dependent upon high quality transit service being available as an alternative to intersection widenings and other roadway improvements. On a more practical level, staff notes that there are currently no LATR problems in Germantown Town Center, so there is no immediate use for the provision.

Expansion of the Alternative Review Procedures for Metro Station Policy Areas to "Ordinary" Policy Areas.

Staff is not recommending that the Alternative Review Procedures for Metro Station Policy Areas apply in other non-Metro station areas, such as Germantown West, Kensington/Wheaton, or North Bethesda. Among the reasons is the fact that a comprehensive Local Area Transportation Review is extremely difficult to perform for larger policy areas. Along with there being many more intersections to study, there are also many more developable or redevelopable lots and staff must either predict which lots are most likely to develop, which adds uncertainty, or test many scenarios, which adds significantly to the work program.

Larger policy areas do not have the high and concentrated levels of transit service that the County can use to balance higher intersection congestion conditions. In addition, improvements to the pedestrian environment will have less of an impact, since sidewalk usage is more diffuse. Even in down county policy areas where transit usage is higher,

transit usage and levels of service do not approach those of the Metro Station Policy Areas.

Additionally, LATR conditions in larger policy areas are generally more affordable and more feasible than they are in CBDs and other Metro Station Policy Areas. For many developers, the DAP payment will be more expensive than meeting LATR conditions. For other intersections that will require the more expensive improvements, it may not be in the County's interest to permit the developer to pay a fee rather than make the improvement, especially in an area where the County is not especially encouraging development.

Finally, the Alternative Review Procedure is intended to stimulate development in Metro Station Policy Areas. If the procedure applies countywide, it will no longer act to direct development to areas where public infrastructure already exists.

Alternative Review Procedure for Limited Residential Development

The Alternative Review Procedure for Limited Residential Development permits development to proceed in policy areas that are otherwise in moratorium for new residential subdivision approvals. In exchange for being released from the roadway improvement obligations of Policy Area Transportation Review and Local Area Transportation, the developer voluntarily agrees to make a payment to the County based upon the square footage of the housing units he intends to construct. The payment is made at the time of building permit.

This alternative review procedure was intended as a temporary stimulus for residential development and is limited in scope and duration. No more than 300 housing units made be approved under the procedure in any one fiscal year, nor can more than 100 units with the same landowner at the same location be approved. The procedure is not available in Fairland/White Oak or Aspen Hill, due to the seriousness of the traffic congestion in those areas. The procedure is scheduled to sunset July 14, 1996 (AGP "fiscal years" begin on the fifteenth of July).

Because there will not be another AGP Policy Element before the sunset of the Limited Residential Development procedure, Planning staff is including in this document an analysis of the County's experience with the procedure thus far. The analysis includes a review of the subdivisions approved and the roadway improvements that should be considered to support those subdivisions, and recommendations for extending the life of the procedure.

Subdivisions Approved

The overwhelming majority (595 out of 607) of units approved under the procedure were approved during the first fiscal year it was available. The remaining twelve units in the Jones Lane property in North Potomac were approved in January 1995. These are approvals as of March 1, 1995.

Two policy areas — Germantown West and Cloverly — saw the bulk of the approvals with 231 units each. Cloverly is a policy area that has been in moratorium for

a significant length of time and Germantown is currently the fastest growing region in the County. Olney has seen the approval of two subdivisions totalling 105 units and Damascus a total of 28 units. There were no Alternative Review Procedure approvals in Montgomery Village/Airpark.

The property of one subdivision approved under the procedure, the Robey Property in Cloverly, was subsequently sold to Montgomery County Public Schools for use as a school site.

The type of housing approved was primarily single family detached homes, although two subdivisions in Germantown West contain both attached and detached single family homes. As of January 1995, most subdivisions were anticipated to go to building permit within 6 months to a year. As of March 1995, only one subdivision had done so, the LLewellyn project in Cloverly.

Possible Transportation Improvements

Planning staff reviewed the transportation needs of the five policy areas in which subdivisions have been approved under the Alternative Review Procedure. Staff also reviewed the Local Area Transportation Review conditions the subdivisions would have been required to make had they been approved under regular procedures.

Based upon that review, Planning staff has identified transportation improvements it recommends for funding with the proceeds of the Development Approval Payment. The recommended transportation improvements are identified as to whether they provide additional staging ceiling (Policy Area Transportation Review) or additional capacity at local intersections (Local Area Transportation Review).

Staff recognizes that DAP revenues alone will not be sufficient to pay for the improvements staff is recommending. However, a number of these improvements will also provide more transportation capacity than is needed by the DAP-paying subdivision(s), capacity which can be used toward decreasing the policy area's capacity deficits and possibly provide some capacity for additional development.

Consequently, the recommendations for PATR aren't primarily concerned with providing a match between the capacity needed by the subdivisions and the capacity provided by the recommended improvement. Rather, staff considered contributions toward a policy area's most-needed transportation projects an appropriate use of DAP revenues, even when those revenues would only fund a portion of the project's total cost.

Conversely, for Local Area Transportation Review recommendations, staff made every attempt to identify intersection improvements that would just satisfy the capacity needed by the approved subdivision(s).

Cloverly Policy Area

Six preliminary plans, totalling 231 units, have been approved. Planning staff supports the following uses for the DAP revenues:

Approved and Pending Requests for Approval
Under the Alternative Review Procedures for Limited Residential Development
of the Annual Growth Policy

Cloverly Policy Area	Number of Units Proposed	Number of ARP/LRD* Units Approved	Date of Approval	Number of ARP/LRD* Units Pending	Map No.	Construction Status
LLewellyn 1-90204	71	71	2-25-93	—	1	Under construction
Hampshire Greens 1-89048	286	100	6-23-94	—	2	Expected start in 1995
Robey 1-91096	40	40	6-30-94	—	3	Property sold to MCPS
Wilson 1-94088	7	7	7-14-94	—	4	Expected start in 1995
Cape May Forest	41	—	—	26	5	Unknown
Phillips 1-94087	13	13	6-30-94	—	6	Expected start first half 1995
Cloverly Total:	458	231		26		

Germantown West Policy Area	Number of Units Proposed	Number of ARP/LRD Units Approved	Date of Approval	Number of ARP/LRD Units Pending	Map No.	Construction Status
Holleman 1-84105	210	31	6-30-94	—	7	Expected start in 1995
Pleasants 1-90017	882	100	6-30-94	—	8	Expected start in 1995
King/Hargett 1-88216	569	100	6-30-94	—	9	Expected start in 1995
Germantown West Total:	1,661	231				

Olney Policy Area	Number of Units Proposed	Number of ARP/LRD Units Approved	Date of Approval	Number of ARP/LRD Units Pending	Map No.	Construction Status
Smalls Nursery 1-94011	135	100	6-16-94	—	10	Expected start post-1995
Audrey's Song 1-94038	10	5	3-16-94	—	11	Expected start in 1995
Olney Total:	145	105				

Damascus Policy Area	Number of Units Proposed	Number of ARP/LRD Units Approved	Date of Approval	Number of ARP/LRD Units Pending	Map No.	Construction Status
County View 1-86245	27	27	1-4-94	—	12	Expected start in 1995
Minton Property 1-95003	6	1	10-27-94	—	13	Expected start in 1995
Damascus Total:	27	28				

North Potomac Policy Area	Number of Units Proposed	Number of ARP/LRD Units Approved	Date of Approval	Number of ARP/LRD Units Pending	Map No.	Construction Status
Jones Lane Prop. 1-93019	12	12	1-5-95	—	14	Expected start in 1995
North Potomac Total:	12	12				

* ARP/LRD = Alternative Review Procedures for Limited Residential Development

Staging Ceiling: Staff recommends that the DAP revenues be contributed towards the future facilities planning project for a transit center. Staff's analysis assumes construction of the State Highway Administration's MD 28 Extended project (CTP Project 153305) and MCDOT's Norbeck Road Extended project (CIP project 933121). Norbeck Road Extended will provide an alternative east-west route for traffic instead of Ednor and Norwood Roads.

Intersection Congestion: For local area transportation review (LATR), staff recommends improvements at the following intersections: New Hampshire Avenue (MD 650) and Ednor Road, Norwood Road and Ednor-Layhill Roads, and Norbeck Road (MD 28) and Layhill Road (MD 182).

Germantown West Policy Area

Three preliminary plans, totalling 231 units, have been approved. Planning staff supports the following uses for the DAP revenues:

Staging Ceiling: Planning staff recommends that the DAP revenues fund the widening of Father Hurley Boulevard north of A-254 to Wisteria Drive, contribute towards a future SHA project to widen Clopper Road (MD 117) west of MD 118 to A-297, contribute funds toward the proposed park and ride lot on Clopper Road between MD 118 and Great Seneca Highway, and/or contribute toward the Germantown transit center which has completed facilities planning review.

Intersection Congestion: Planning staff recommends an intersection improvement at MD 118 and Aircraft Drive.

Olney Policy Area

Two preliminary plans, totalling 105 housing units, have been approved. Planning staff supports the following uses for the DAP revenues:

Staging Ceiling: Planning staff recommends that the DAP revenues contribute to the future facilities planning project for a transit center. This analysis assumes construction of the State Highway Administration's MD 28 Extended project (CTP Project 153305) and MCDOT's Norbeck Road Extended project (CIP project 933121). Although not within the Olney Policy Area, this road will provide an alternative east-west route for traffic currently congesting MD 108. Thus traffic on MD 108 and through the Olney Policy Area would be reduced.

Safety: Although not a capacity improvement to satisfy adequate public facilities review requirements, staff would recommend the funding of highway spot improvements or a facility planning project for safety improvements along Emory Lane between Muncaster Mill Road (MD 115) and Cashell Road especially at Holly Ridge Road, Pinetree Road, and other hazardous locations.

Intersection Congestion: For LATR, staff notes that there are no feasible intersection improvements within the Olney Policy Area. Along Georgia Avenue, all major intersections from Norbeck Road to MD 108 are failing with traffic generated by the approved, but unbuilt developments. However, any feasible improvements at these intersections have been required of previously approved subdivisions to mitigate the impact of their site-generated traffic. Georgia Avenue was widened to four lanes several years ago. The

state is now widening MD 108 to four lanes. When that is complete, the major intersections that were failing will operate within the LATR congestion standard.

Damascus Policy Area

Two preliminary plans, totalling 28 housing units, have been approved. Therefore, there are not enough funds available in FY 96 to fund an effective improvement. When additional funds are accumulated, one possible project for staging ceiling would be accelerating the funding of Phase II of MD 124 Extension (A-12), which will extend MD 124 from the intersection of MD 108/MD 124 to north of MD 27 as an alternative route around the Damascus business area.

North Potomac Policy Area

One preliminary plan, totalling 12 housing units, has been approved. Therefore, there are not enough funds available in FY 96 to fund an effective improvement. When sufficient funds have accumulated, a possible project to create staging ceiling would be the state project to widen MD124 (Quince Orchard Road) to four lanes from two between Darnestown Road and Longdraft Road. Funds could also be contributed toward the interim transit plan for the Shady Grove area now being considered as a CIP project.

Evaluation of the Alternative Review Procedure for Limited Residential Development

Less than two years have passed since the Alternative Review Procedure for Limited Residential Development went into effect. Although few subdivisions have taken advantage of the procedure thus far in the second year, there is still time for additional approvals in FY95. However, it is unlikely that additional procedure approvals will occur in Germantown West, since roadway improvements programmed for that area are expected to provide enough new capacity in FY96 to allow the queue of pending development to be approved.

Although the experience has been limited, staff is able to offer an appraisal of how the procedure has worked thus far and to make recommendations concerning the procedure's future.

As a stimulant to resident development, the Alternative Review Procedure has been a qualified success. A majority of the units approved would not have been able to proceed without the procedure, although a sizable minority had already been approved under the developer participation provisions of the AGP. The total number of units approved, at 607, is well short of the theoretical annual maximum of 1,800. And even with the additional units, the County will not see yearly completion totals approach 5,000 for several years, let alone the 10,000-units-per-year peak of the late 1980s.

The moderate popularity of the provision suggests that the Development Approval Payment was not, at least from the developer's standpoint, underpriced.

The procedure has been most successful in Germantown West and Cloverly, where most of the approvals occurred, both from a development standpoint and a transportation standpoint. Both policy areas have transportation improvements that, if programmed as

expected, will provide the capacity needed to support the procedure approvals in a relatively short time. In Germantown West, the capacity is expected to be available in FY96; in Cloverly, the Norbeck Road Extended project could be counted in FY97 if it is programmed for completion by 2000 as the Executive has recommended (and as the Council has tentatively agreed).

Of course, it is possible that one or more subdivisions approved under the Alternative Review Procedure will apply for reapproval under regular procedures once the capacity becomes available and thereby avoid paying the DAP.

It is in the other three policy areas — Damascus, Olney, and North Potomac — that the result is less conclusive. Norbeck Road Extended will provide some relief to Olney as an alternative to congested MD 108, which may be more than sufficient to support Olney's 105 (thus far) approvals. In Damascus and North Potomac, the small number of procedure approvals mean that DAP revenues will are insufficient except as small contributions toward much larger transportation projects.

However, from some viewpoints, the Alternative Review Procedure could be considered at its most successful when smaller subdivisions are approved under its provisions. A consequence of the developer participation provisions of the AGP — which require that developer construct the facilities needed to support his development — is that it is generally economically unfeasible for smaller subdivisions to participate. Small roadway improvements do not create staging ceiling, as a general rule.

So there are few, if any, options for the small subdivision developer beyond waiting for publicly-funded capacity other than the Alternative Review Procedure, as long as it is available. In that sense, the procedure serves the broader purpose of extending to smaller developers an option that has been available to larger developers in the form of developer participation.

Of course, subdivision moratoria are not paper exercises; the congestion represented by a negative net remaining capacity number is very real. Exceptions must be limited and, for the most part, require that developers contribute toward relieving the congestion they make worse (de minimis approvals the exception). The Alternative Review Procedure for Limited Residential Development is a reasonable, if imperfect, mechanism for this contribution to be made.

By the time this Policy Element is considered by the County Council, the AGP will have been amended to allow development districts to be created. Development districts provide a much more comprehensive solution to subdivision moratoria and will significantly decrease the utility of the Alterative Review Procedure for Limited Residential Development. However, it is likely that it will be a while before new districts are proposed, approved, and implemented.

Based upon these conditions, Planning staff would support extending the Alternative Review Procedure for Limited Residential Development for an additional two years. Staff recognizes that the procedure is imperfect in that it does not guarantee the provision of transportation facilities as development occurs. However, staff notes that the bulk of the capacity deficits created by the procedure will be addressed relatively soon. Staff is also persuaded that, until development districts can be fully implemented, the Alternative

Review Procedure is offers smaller developers the opportunity to pay the maximum financially feasible contribution toward transportation infrastructure to gain approval.

Staff notes that the continuation of the Alternative Review Procedures may relieve some of the perceived need to increase the number of units approvable under the *de minimis* rule.

Although staff is satisfied with the Alternative Review Procedure's current limit on the number of units that can be approved in any fiscal year, the County could further limit its potential negative effects by decreasing the total number of units approvable under the procedure. Staff feels that the 100 units per landowner at one location and 300 units per policy area is an appropriate limit, since projects larger than 300 units are generally able to take advantage of the developer participation provision.

Evaluation of LATR Standards

The Planning Department is proceeding with this work program element in conjunction with Executive staff and interested citizens. Collection of additional intersection traffic data and review of the data and analysis by the concerned parties will be required before a staff recommendation can be made.

The FY 95 AGP identified a future task for the Planning Staff and Executive staff, in cooperation with interested citizens, to conduct concerning investigating and monitoring intersections to determine if the adopted standards will create congestion or safety problems. A working group of the staffs and citizens has both met and corresponded concerning this analysis. It recently has become apparent that the data necessary for this effort is not available from the MCDOT. To address this, some data collection is identified in the Planning Department budget request for FY 96, which would support other planning work as well. This will allow the analysis to move forward.

It is expected that in the coming fiscal year an investigation of delay and other aspects of intersections above a 1,525 CLV will be conducted, so that some findings can be presented to the Council. It is hoped that Council staff as well as other transportation professionals and interested citizens will be involved in the review to provide a wide perspective on the issues involved and findings from the analysis.

Appendix One

Development Trends

There was a modest amount of development activity in Montgomery County during 1994. While commercial construction fell to levels lower than any experienced in the past fifteen years, housing showed a modest rebound. For 1995, modest improvements in both are expected, with retail and multi-family construction providing much of the increase.

As required by the Annual Growth Policy legislation, this report includes a summary of development trends to lend perspective to consideration of policies which manage growth. Staff will be updating these trends quarterly during the period that this document is under consideration.

Non-Residential Construction

Construction of commercial building slowed considerably in 1994 to a total of 706,000 square feet, well below the 2.4 million square feet average of the previous four years. Declines were seen in all types of space.

In 1994, just 190,000 square feet of office space was completed, while the total for 1993 was over 1.7 million square feet of space. Retail construction dropped to 281,000 square feet, less than half of the 1993 total of 780,000.

There still appears to be an abundance of office space on the market both locally and regionally. The combination of the overbuilding of the 1980s and the corporate downsizing of the 1990s has resulted in increases in the County's office vacancy rate from 14.3 percent at the beginning of 1993 to 19.3 percent at the beginning of 1995. County office submarkets containing major corporate tenants, such as North Bethesda and Rockville, were hardest hit by the downsizing of firms.

Office space absorption in Montgomery County during the first half of 1994 was well above levels experienced during the previous three years. Since then, the County has had three quarters of negative absorption. A significant portion of this so-called "negative absorption" were moves by County tenants from older to new space within the County, however.

The moves from older, less-desirable space ("Class B" and "Class C" space) to the more-desirable Class A space are encouraged by the typically attractive leasing terms for Class A space. As a result, while the County's vacancy rate for Class A space is comparatively healthy at 9 percent according to Spaulding & Slye, the vacancy rate for Class B space is 16 percent, and for Class C, it is 27 percent.

Non-Residential Development Indicators

Subdivision Approvals *(in thousands of square feet)*

Year	Office	Retail	Indust/Whse	Other	Total
1991	6,069	1,415	1,094	159	8,738
1992	812	151	26	48	1,038
1993	808	128	1	53	990
1994	1,342	627	0	0	1,970

Source: M-NCPPC.

Completions *(in thousands of square feet)*

Year	Office	Retail	Indust/Whse	Other	Total
1980	1,754	519	308	284	2,865
1985	4,078	782	752	445	6,058
1990	1,172	558	509	232	2,491
1991	950	1,016	933	149	3,048
1992	589	698	103	140	1,530
1993	1,723	780	103	193	2,800
1994	199	281	56	171	706

Source: M-NCPPC and State Department of Assessments and Taxation.

Office Space Inventories *(in thousands of square feet)* and Vacancy Rates

Year	Montgomery		Prince George's		Fairfax Co.		Washington, DC	
1987	19,707	14.8%	7,869	19.6%	34,325	18.2%	53,694	10.4%
1988	22,577	17.1%	8,842	16.9%	39,919	14.6%	67,793	8.6%
1989	25,984	13.8%	12,081	23.2%	48,996	17.6%	74,115	7.6%
1990	28,522	16.0%	12,916	18.4%	51,809	18.5%	75,907	7.7%
1991	30,472	18.0%	14,552	21.7%	62,661	22.9%	82,099	10.4%
1992	30,640	17.6%	15,050	22.4%	62,261	23.3%	86,431	10.3%
1993	30,840	14.3%	15,028	22.3%	61,382	19.9%	88,584	10.6%
1994	33,760	17.1%	14,656	21.1%	61,088	18.8%	85,449	10.9%
1995	36,022	19.3%	14,608	17.6%	60,737	14.6%	88,094	11.2%

Source: Spaulding & Slye

Montgomery County Office Vacancy Rates

Area	1990	1995
Bethesda CBD	19.3%	22.7%
Bethesda-Rock Spring	12.1%	23.3%
Burtonsville	27.2%	34.2%
Chevy Chase	6.1%	12.4%
Kensington	13.4%	12.4%
I-270 Gaithersburg	26.1%	31.1%
I-270 Germantown	7.6%	9.8%
I-270 Rockville	20.3%	13.3%
Rockville Pike Corridor	11.9%	12.2%
Silver Spring CBD	25.6%	27.3%
Silver Spring - Route 29 Corridor	18.9%	15.1%
Wheaton	8.3%	6.6%

Source: Spaulding & Slye

Retail Vacancy Rates

Area	1988	1989	1990	1991	1992	1993	1994
Countywide	4.0%	2.7%	5.6%	5.3%	6.1%	5.3%	5.1%
Metropolitan Areawide	n/a	12.0%	16.6%	19.8%	19.6%	16.6%	16.7%

Source: Simthy-Braedon-Oncor

On the plus side, the federal government, which is the County's largest tenant, increased its amount of leased space by one-third between 1993 and 1994, to a total of 6.2 million square feet. The federal government is expected to continue to contribute greatly to the County's office market, but current actions in Congress aimed at downsizing are worrisome.

Even with the uncertainty about corporate and federal downsizing, the office market (and the prospect of new construction) is expected to improve over the longer term. The relatively tightness of the Class A office space market should lead to rental rates increases, a necessary condition for new construction.

A turnaround is not expected for Class B and C space anytime soon. Although renovations of office buildings can be cheaper than new construction (and undergo fewer development approval difficulties), the region has not seen much of this type of activity except in the very tightest office markets, such as Rosslyn.

Year end predictions for 1995 by various brokerage houses all suggested that the outlook is improving. Barnes, Morris, Pardoe and Foster noted that the County is quickly being depleted of Class A, which will spur build-to-suit development. The Real Estate Research Corporation of Chicago recently named the Washington, DC area as the top office market in the country, particularly "24-hour" suburban markets such as the Bethesda CBD.

Retail space, on the contrary, is doing well in Montgomery County. In fact, Montgomery County has had one of tightest retail markets in the Washington, DC metropolitan area for many years. The vacancy rate in the County's shopping centers fell to 5.1 percent in 1994, down from 5.3 percent the year before. Experts suggest that when the Montgomery County's rate this low, Mom-and-Pop type stores have difficulty renting prime space, as landlords tend to prefer large chains as tenants.

Montgomery County will continue to be a very attractive retail market. For 1995, the County is seeing the construction of new shopping centers in the I-270 corridor, including the County's largest grocery store -- a Shopper's Food Warehouse -- in Gaithersburg.

Residential Construction

Construction of housing in Montgomery County increased modestly in 1994 to an estimated 3,000 units. The total for 1993 was 2,818 units. Increases of about 300 units each in single family detached and multi-family construction were able to offset a 325 unit decline in townhouses. Sales of new homes in 1994 were similarly down by about 300 units from 1993, according to Housing Data Reports. Sales of existing homes were down as well.

Housing construction indicators showed some gains in 1994. Building permits were up by about 500 units, with much of the gain in multi-family housing. Approvals of new housing subdivisions were down, however, but have rebounded during the first quarter of 1995. In fact, almost as many housing units were approved during the first quarter of 1995 as during all of 1994. Building permits have also improved during the first quarter of 1995: they were up 13 percent overall, with permits for multi-family construction up 36 percent. Single family detached permits rose 4 percent while townhouse permits fell by 3 percent.

Residential Development Indicators

Subdivision Approvals *(in units)*

Year	Single Family Detached	Single Family Attached	Multi-Family	Total
1991	1,947	471	3,338	5,756
1992	931	401	531	1,863
1993	1,599	324	1,216	3,139
1994	1,818	93	482	2,393
1995 (first quarter)	917	295	919	2,131

Source: M-NCPPC.

Building Permits *(in units)*

Year	Single Family Detached	Single Family Attached	Multi-Family	Total
1988	2,841	2,089	1,603	6,533
1989	1,961	1,466	2,386	5,813
1990	1,367	1,075	1,756	4,198
1991	1,189	848	1,055	3,092
1992	1,927	1,146	493	3,566
1993	1,938	1,121	396	3,455
1994	2,145	971	824	3,940

Source: M-NCPPC.

Completions *(in units)*

Year	Single Family Detached	Single Family Attached	Multi-Family	Total
1988	3,419	2,658	2,320	8,397
1989	2,496	1,662	1,979	6,137
1990	1,327	1,111	832	3,270
1991	914	814	2,994	4,722
1992	1,031	916	1,304	3,251
1993	1,311	1,165	342	2,818
1994	1,620	840	540	3,000

Source: M-NCPPC and State Department of Assessments and Taxation. 1994 is an estimate.

Home Sales *(in units)*

Year	Single Family Detached		Single Family Attached		Multi-Family	Total
	New	Existing	New	Existing	Combined	
1988	2,640	8,371	2,150	4,876	3,771	21,808
1989	1,722	6,588	1,319	4,457	3,703	17,789
1990	993	7,084	921	5,136	3,549	17,683
1991	692	5,495	806	3,690	2,215	12,804
1992	801	5,811	922	3,637	2,185	13,356
1993	932	5,711	735	3,181	1,805	12,364

Source: M-NCPPC and State Department of Assessments and Taxation. 1994 is not yet available.

Median Home Prices *(in thousands of dollars)*

Year	Single Family Detached		Single Family Attached		Single Family
	New	Existing	New	Existing	Combined
1988	$231	$173	$119	$102	$145
1989	287	200	146	118	167
1990	318	207	158	126	170
1991	309	208	146	128	173
1992	310	217	186	129	183
1993	320	217	181	130	187

Source: M-NCPPC and State Department of Assessments and Taxation. 1994 is not yet available.

Housing prices edged slightly higher in 1994, but did not keep pace with inflation. According to the Montgomery County Association of Realtors, the average sales price of single-family detached home rose from $269,000 to $271,000 from 1993 to 1994. Townhouses rose from $148,000 to $149,000 and condos rose from $106,000 to $112,000.

Although home sales continued to drop during the first quarter, residential construction is likely to rise by about 500 units during 1995, due to increases in single-family detached homes and multi-family units. The single-family detached construction is aided by the expected construction of recently-approved projects in Germantown, Cloverly, and Olney.

Although the multi-family construction market is recovering from two years of very low levels of construction, those years followed two years in which just under 4,300 units were constructed. The financing picture continues to improve and vacancy rates are low, according to the Office of Landlord-Tenant Affairs annual survey.

Planning Department staff expects the County to reach the forecast of 3,500 housing units for 1995, largely on the strength of these two factors. Housing construction has averaged about 3,000 units over the past three years.

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